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In The

Supreme Court of the United States

October Term, 1970

No. 1181

[redacted],

Petitioner,

vs.

[redacted],

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF [redacted]

[redacted]
6135 Archer Avenue
Chicago, Illinois 60638
Pro Se

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In The

Supreme Court of the United States

October Term, 1970

No.

STANLEY TURETSKY,

Petitioner,

vs.

SAMUEL A. LEIBOWITZ,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF HAWAII

Petitioner submits this petition for a writ of certiorari under oath.

To: *The Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States of America.*

Petitioner, Stanley Turzynski, Pro Se, prays that a writ of certiorari issue to review an order of the Supreme Court of Illinois in which said Court has denied leave to appeal from a judgment of the Appellate Court of Illinois, First Judicial District.

OPINION BELOW.

The opinion of the Appellate Court of Illinois, First Judicial District, rendered January 22, 1970, is reported in 122 Ill. App. 2d 382, and is printed in Appendix C herein at page 3a et seq. The order of the Illinois Supreme Court denying the petition for leave to appeal is printed in Appendix D herein at page 14a.

JURISDICTION.

The judgment of the Appellate Court of Illinois, First Judicial District was entered on January 21, 1970, affirming the judgment of the Chancellor (this was a Master in Chancery case). Extension of time for filing of a petition for rehearing was allowed, and a sworn petition for rehearing, Pro Se, in view of petitioner's inability to procure counsel, who would be willing to represent petitioner in this appeal, was filed on April 6, 1970. Said petition remained unanswered by respondent. A motion by your petitioner to said Appellate Court to disqualify itself from hearing aforesaid petition for rehearing on the ground of conflict of interest on the part of aforesaid Appellate Court, which is documented by the fact that said Appellate Court has CONFUSED UP by itself a chain of fictitious facts upon which it has based its opinion and decision in said appeal was denied. Said petition for rehearing was denied as well by said Appellate Court on May 8, 1970. A sworn petition for leave to appeal as a matter of right and of law to the Supreme Court of Illinois was filed on June 8, 1970, Hereins Pro Se, remained unanswered by respondent, and was denied on October 5, 1970, without opinion. No rehearing was requested. *The jurisdiction of this Court is invoked under 28 U.S.C. 1257 (3).*

This petition for writ of certiorari is filed less than 90 days from the denial of the petition for leave to appeal to the Supreme Court of Illinois.

QUESTIONS PRESENTED.

1.

Whether the State Appellate Court for the First District of Illinois has flagrantly deprived your petitioner and the People as a whole of due process and equal protection of the laws by rendering an opinion consisting solely and exclusively of fictitious facts CONJURED UP by said Appellate Court itself, and all contrary to the true evidence in said case which was deliberately excluded by said Appellate Court from its opinion. Whether said Appellate Court by having CONJURED UP said chain of fictitious facts, has proven by itself that its opinion and decision in said appeal is manifestly false, and, therefore, VOID and unenforceable, as is counterfeit money. Whether the results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

2.

Whether the deliberate exclusion by said Appellate Court from its opinion of literally all true evidence decisive to a fair decision in said appeal, and the replacement thereof with a long chain of fictitious facts CONJURED UP by said Appellate Court itself rendered aforesaid opinion and decision in said appeal VOID and unenforceable, as is counterfeit money. Whether the results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

3.

Whether said Appellate Court has flagrantly deprived your petitioner and the People as a whole of due process and equal protection of the laws by its decision in said appeal, a decision which is contrary to said Appellate Court's own findings, and, therefore, proven by said Appellate Court itself that its decision in said appeal is manifestly false, and, therefore, VOID and unenforceable, as is counterfeit money. Whether the results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

4.

Whether your petitioner and the People as a whole were flagrantly deprived of due process and equal protection of the laws by said Appellate Court's decision in said appeal which affirmed a Judgment which is FALSE and VOID, even by said Appellate Court's own opinion, although false. Whether said Appellate Court by its action has proven by itself once again that its decision in said appeal is manifestly false, and, therefore, VOID and unenforceable, as is counterfeit money. Whether the results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

5.

Whether your petitioner and the People as a whole were flagrantly deprived of due process and equal protection of the laws by said Appellate Court's decision in said appeal which affirmed a Judgment which was based solely and exclusively on the Master's recommendation, a recommendation

which is totally false, even by said Master's and said Appellate Court's own findings, hence said decision is automatically VOID and unenforceable, as is counterfeit money. Whether the results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

6.

Whether the Supreme Court of Illinois has flagrantly deprived your petitioner and the People as a whole of due process and equal protection of the laws by its refusal to grant petitioner leave to appeal from said opinion and decision of said Appellate Court, an opinion and decision which have been proven by said Appellate Court itself as being manifestly false, and, therefore, VOID and unenforceable, as is counterfeit money. Whether the results which flow from said action of the Supreme Court of Illinois destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

7.

Whether a due process violation has been accomplished by the Illinois State Judiciary.

8.

Whether your petitioner, who is not an attorney, has been flagrantly deprived of his Constitutional rights by being forced to prepare this petition for a writ of certiorari by himself, without legal counsel, as he did prepare all briefs in said appeal, because petitioner has been unable to procure counsel who would be willing to represent him in this matter.

CONSTITUTIONAL PROVISIONS INVOLVED.

United States Constitution,

The Fifth Amendment is printed in Appendix A hereto, infra, page 1a.

The Fourteenth Amendment is printed in Appendix A hereto, infra, page 1a.

Illinois Constitution,

Article II—Bill of Rights,

Section 2 is printed in Appendix A hereto, infra, page 1a.

Section 19 is printed in Appendix A hereto, infra, page 1a.

STATUTES INVOLVED.

Civil Rights Acts

42 U.S.C.A., Section 1983 is printed in Appendix B herein, infra, page 2a.

United States Internal Revenue Code

Section 453 of U.S.I.R. Code of 1954 is printed in Appendix B herein, infra, page 2a.

MISCELLANEOUS INVOLVED.

Illinois Law and Practice

Section 31, Volume 12, Contracts is printed in Appendix B herein, infra, page 2a.

STATEMENT OF THE CASE.

The peculiar factual background of this case necessarily involves a more detailed statement for an understanding.

Your petitioner is the plaintiff in this case.

The appeal herein involves defendant's alleged affirmative defense to the complaint of plaintiff to enjoin defendant from opening a new medical office next door to plaintiff. Plaintiff has based his complaint (A. 1-6) on the written contract of sale where defendant had sold his medical practice to plaintiff for $185,000.00 (Appendix F). The basic consideration for said transaction was the restrictive covenant, prohibiting defendant from practicing as a general practitioner within a radius of 15 miles from aforesaid medical practice with certain favorable exceptions to defendant (Appendix F). In fact, said restrictive covenant was actually the transacted object, equivalent to the term of the sale of defendant's medical practice to plaintiff, and without said restrictive covenant there wouldn't have been any transaction

whatsoever. Plaintiff had paid to defendant for aforesaid restrictive covenant alone $110,000.00 on August 19, 1961 (A. 96, Appendix H). Defendant in his answer to said complaint of plaintiff claimed two alleged instruments as his alleged affirmative defense to-wit: an so called "ADDENDUM", "Defendant's Exhibit A" and another so called "AMENDMENT", "Defendant's Exhibit B" (A. 6-7). Plaintiff has denied said affirmative defense of defendant (A. 22-25).

The Master, on his own, marked aforesaid "ADDENDUM" as "Plaintiff's Exhibit 2" (Appendix I), and aforesaid "AMENDMENT" as "Plaintiff's Exhibit 3" (Appendix J). The Appellate Court in its opinion, on its own, called aforesaid "ADDENDUM" "Exhibit No. 2", and aforesaid "AMENDMENT" "Exhibit No. 3". Said exhibits are the crux of said appeal. Defendant employed plaintiff's attorney to represent him in said transaction together with plaintiff (A. 90). Plaintiff is a newcomer to this country, inexperienced in business transactions, and relied in this transaction on his attorney who kept all documents pertaining to this transaction until the start of this lawsuit (A. 98, 100, 139). Defendant is an American born citizen, and a well experienced business man (A. 177). Said transaction was consummated on August 19, 1961 (Appendix H), with plaintiff taking over said practice on August 21, 1961 (A. 137). Defendant described to plaintiff the proposed medical practice as a "gold-mine" (A. 92), and gave the reason for selling it his permanent relocation in California (A. 51). Defendant never went to California (A. 51).

Paragraph 2 of said contract of sale provides the payment of $67,000.00 to defendant on the closing date of the deal (Appendix F), whereas under the guidance of

said duplicitous attorney defendant received on the closing date of said transaction $117,000.00, leaving an unpaid balance for said medical practice in the amount of $68,000.00 (Appendix H), to be paid in monthly installments of $2,500.00 within a period of 2½ years commencing January 1962, without interest (Appendix F). As a further security for that balance, defendant received a Trust Deed and Instalment Note of $68,000.00 (Appendix G). Defendant picked up the monthly checks personally for 3 consecutive months beginning January 1962 (A. 105). Plaintiff accustomed to the established method of defendant picking up the monthly check waited for him to pick up the April check, but instead he received on April 8, 1962 a letter from defendant demanding the payment of the entire balance of $68,000.00 alleging default in payment (A. 106). Plaintiff on the advice of said duplicitous attorney paid to defendant on April 19, 1962 the entire balance of $68,000.00 with borrowed money (A. 107, Appendix G).

Defendant was obligated under Paragraph 5 of said contract of sale (Appendix F) to use the "best of his efforts" to render a smooth transfer of said medical practice to plaintiff and for that purpose to remain employed by plaintiff for 3½ months until December 1, 1961, but instead of remaining there 3½ months defendant stayed only 20 days with a paid salary to him daily of $50.00 a day (A. 56-58, 84-85, Appendix K). Defendant then induced plaintiff to continue defendant's intermittent daily employment beyond December 1, 1961 on "a day to day basis", guaranteeing satisfaction, but demanded a double salary from $50.00 to $100.00 a day (A. 111-112, 126, 135-136, Appendix K). Defendant stayed there after December 1, 1961 for 27 days intermittently,

on "a day to day basis" as per verbal agreement between the parties, and the consideration for said stay was the 100% increase in defendant's salary from $50.00 to $100.00 a day (A. 111-112, 126, 135-136, Appendix K). A day means only 5 hours (A. 134). Defendant admitted having received said salary paid to him daily (A. 48, 56-58, 84-84, Appendix K). Defendant at no time introduced plaintiff to defendant's patients, nor to industrial accounts (A. 136-137), nor was there any change in the number of patients during defendant's stay there, even with a double salary (A. 125). There were no accounts receivable (A. 137).

On December 1, 1961, about 4 P.M. defendant handed to plaintiff two identical copies of "ADDENDUM" (Exhibit No. 2) (Appendix I), prepared by defendant himself, at his home (A. 42), without the knowledge of plaintiff and asked plaintiff to sign them as a favor to defendant, alleging of needing them desperately for the Internal Revenue in order to obtain a tax benefit (A. 102-105, 189-190, 207). Plaintiff after having read them, left aforesaid two copies of "ADDENDUM" unsigned on the table in the office where he returned at about 7 P.M. at the request of defendant who pushed plaintiff into the office to sign them, while plaintiff was busy with a patient (A. 102-105, 129-130, 190-191, 207). Plaintiff found said two copies of "ADDENDUM" (Appendix I) lying on the table covering each other except for a space to sign (A. 104-105, 207), signed said two copies of "ADDENDUM" (Exhibit No. 2, Appendix I) just glancing on the top page, and left the office, leaving the signed copies on the table (A. 103-105, 190, 207-209).

In April 1963 defendant suddenly started taken office hours next door to plaintiff, but he terminated them by himself after 3 days (A. 112).

A few days later plaintiff received in the mail Pl. Exh. 11, announcing defendant's return to practice next door to plaintiff (A. 109, 275), which resulted in the filing of said lawsuit for an injunction. Plaintiff did not ask in his complaint for a cancellation of an alleged Exhibit No. 3 (Appendix J), which is the sole disputed issue in this appeal, because he was confronted with it for the first time after defendant had claimed it as his alleged affirmative defense to plaintiff's complaint (A. 6-7, 191). This was a Master in Chancery case.

Defendant testified that he prepared and typed by himself, at his home, two identical copies of "ADDENDUM" (Exhibit No. 2), an original and a carbon duplicate thereof, and gave to plaintiff to sign them (A. 42), adding that he (defendant) does not recollect whether plaintiff kept the copy of said "ADDENDUM" (A. 83).

As for the reason for the creation of aforesaid "ADDENDUM" (Exhibit No. 2) defendant stated that it "would create a tax benefit" to him, because the "original" contract of sale (Appendix F) was not an "instalment contract" (A. 17-18, 76). According to said "ADDENDUM" itself (Appendix I) said "original" contract of sale was an instalment contract, and according to the evidence defendant had in his possession the Instalment Trust Deed Note (Appendix G), which is an "Instalment Note" on its face. According to Section 453 of U.S.I.R. Code of 1954, defendant did not qualify for any tax benefit, and according to the text of said "ADDENDUM" it did not require plaintiff's signature whatsoever.

Defendant further testified that he prepared and typed by himself, at his home, a so called "Amendment" (Exhibit No. 3—Appendix J) in two copies, without the consent of plaintiff, on November 30, 1961, and only one copy thereof was allegedly signed on the following day, on December 1, 1961, at about 4 P.M., because he was not interested in an alleged copy for plaintiff (A. 42-43, 54). Defendant also testified that he (defendant) kept an alleged signed copy, while an alleged unsigned copy thereof he, defendant, on his own, allegedly gave to Irene Barry, calling her plaintiff's "secretary" (A. 54-55). Plaintiff never had a secretary (A. 142). Defendant further testified that he printed only three announcements about his return to practice next door to plaintiff, but mailed only one, the one to plaintiff, because plaintiff was "very vociferous", and "had a convulsion almost" of defendant coming back into the neighborhood (A. 87-88).

By defendant's own testimony, however, there was never an agreement by plaintiff to an alleged cancellation of the restrictive covenant ("Amendment"), nor was there even a discussion with plaintiff about an alleged cancellation of the restrictive covenant (A. 20, 43-47, see also Reasons for granting the writ).

The Appellate Court did not find that plaintiff agreed to an alleged "defendant's agreement" on his own, to cancel the restrictive covenant (Appendix C, see also Reasons for granting the writ).

The evidence disclosed that an alleged Exhibit No. 3 ("Amendment") was lodged inconspicuously underneath the original of Exhibit No. 2 (ADDENDUM) to pose as the copy of Exhibit No. 2 (A. 211).

The Master did not find that an alleged Exhibit No. 3 was ever delivered to plaintiff.

Irene Barry, defendant's witness, testified that she was a receptionist there (A. 145), hired for said employment by defendant's secretary (A. 172), that at the time she was only for about one month in said employment (A. 141, 165), that she was more off than on the job (A. 171), that there were more girls employed at the time when she was (A. 168), that she left said employment abruptly, because it was "too unbearable" for her to stay there any longer (A. 166). According to said witness her testimony was based on an alleged overhearing of an alleged discussion between plaintiff and defendant on December 1, 1961 (A. 146). According to defendant there was no discussion with plaintiff on December 1, 1961 (A. 43-47). Said witness also testified that she is not sure and does not know whether an alleged Exhibit No. 3 (Appendix J) is the exact paper that was signed (A. 150), that she never read an alleged signed copy, she "wanted to read it—Dr. Libert" (A. 150), that she read it for the first time (in 1963) in the office of defendant's attorney (A. 153). According to said witness, she did not listen to anything on December 1, 1961, the alleged conversation "got to my attention" when defendant allegedly told her to put away an alleged yellow copy which was when the alleged conversation was over (A. 146, 152). She further stated that she cannot recall how long approximately said alleged conversation lasted, nor what time of the day said alleged conversation took place, in the morning or evening (A. 152), she could, however, recall that "there was a carbon copy, but there wasn't carbon paper underneath it" and, therefore, the alleged carbon copy was not

signed (A. 149). Common practice would require that each copy should have been signed separately, in the event an agreement would have taken place. She further stated that defendant didn't say anything to plaintiff to be released from the restrictive covenant, nor did he say anything that he wanted to amend, or to change the agreement he had with plaintiff, he just asked plaintiff to sign "the paper", without identifying "the paper" (A. 156). She stated that her hours at the medical center were "from 9 to 5" (A. 157). Said witness was present in the hearing room and attended all hearings of defendant and plaintiff until she was called to testify (A. 141, 159). A motion by plaintiff to exclude all witnesses had been made and granted (A. 25).

The Master did not find that an alleged Exhibit No. 3 (Appendix J) was ever considered by plaintiff, known to plaintiff, discussed between the parties, nor that plaintiff ever gave a consent to defendant to prepare an alleged Exhibit No. 3, nor that an alleged Exhibit No. 3 was ever delivered unto plaintiff, nor executed by plaintiff. What the Master did find following a lengthy interrogation of plaintiff by the Master himself (A. 205-210) that two copies of "ADDENDUM" (Exhibit No. 2, Appendix I) supposed to be for the Internal Revenue were delivered by defendant to plaintiff on December 1, 1961, at about 4 P.M., and plaintiff (after having read them, the Master had quoted C. 923—A. 207, which relates to that fact) left them unsigned on the table in the office for about 3 hours, where he returned at 7 P.M., and found said two copies of said "ADDENDUM" (Exhibit No. 2) lying on the table in the office (the Master had quoted C. 923—A. 207, C. 926—A. 209, which relate to the fact that said two copies of "ADDENDUM" were

lying on the table in the office covering each other, except for a space to sign, as demonstrated on A. 104) and signed said two copies of "ADDENDUM" (Exhibit No. 2) being alone in the room (Appendix E, pp. 20a, 28a). According to aforesaid findings of the Master, said Master had completely discredited the testimony of defendant and of his witness, "typist—clerk" (A. 42, 54-55, 83, 150, 152-153, 156, 157). However, the Master's recommendation was in favor of defendant, and the Chancellor affirmed said recommendation by a judgment dismissing plaintiff's complaint (A. 291).

Plaintiff took an appeal from aforesaid judgment.

In said appeal plaintiff was compelled to ask to disregard plaintiff's own Objections to the Master's Report, filed by plaintiff's attorney at the time, because they were falsely and fraudulently directed against plaintiff himself (A. 236-248). Following the discovery of said scheme plaintiff, despite repeated efforts, was unable to procure counsel who would be willing to represent plaintiff in said matter. Hence, plaintiff was compelled to prepare all briefs in said appeal by himself, without legal counsel. Plaintiff's contentions in said appeal were:

(1) That defendant by his own testimony and action has proven by himself the total falsity, fiction, and invalidity of his own alleged affirmative defense to plaintiff's complaint.

(2) That the writing of an alleged Exhibit No. 3 which constitutes the sole and exclusive basis of defendant's alleged affirmative defense has been proven by defendant himself as being totally false, hence establishing automatically that defendant's alleged affirmative defense is manifestly false and void.

(3) That the contents of an alleged Exhibit No. 3 is false and contradictory in itself, contrary to human logic, and, therefore, false and void, hence establishing once again that defendant's alleged affirmative defense is automatically false and void.

(4) That even the total lack of consideration for an alleged Exhibit No. 3 proves by itself that hence defendant's alleged affirmative defense is totally false and totally void.

(5) That the Master's recommendation is directly adverse to all evidence, and to the Master's own findings, for the Master did not find that plaintiff ever considered, discussed, gave a consent to defendant to prepare an alleged Exhibit No. 3, nor that an alleged Exhibit No. 3 was ever delivered to plaintiff, known to plaintiff, nor executed by plaintiff.

(6) That the Master by his own findings, for the Master found that defendant delivered to plaintiff on December 1, 1961 only two identical copies of ADDENDUM (Exhibit No. 2) supposed to be for the Internal Revenue, and that plaintiff executed the same and nothing else, nor at any other date, has established the total invalidity of his own recommendation upon which the judgment appealed from is being based. Therefore, said judgment is automatically void.

All contentions of plaintiff were not disputed by defendant in said appeal.

On January 21, 1970 the Appellate Court rendered an opinion, affirming aforesaid judgment of the lower Court.

A sworn petition for rehearing was filed by plaintiff, Pro Se, in which plaintiff pointed out that said Appellate Court for the purpose of rendering a false decision in said appeal, has conjured up by itself a chain of fictitious facts upon which it has based its opinion from which it has also excluded literally all true evidence decisive to a fair decision in said appeal (for particulars see Reasons for granting the writ). In addition, according to said petition, said Appellate Court has proven, by itself, that its decision in said appeal is manifestly false, for said decision is contrary to said Appellate Court's own findings (for particulars see Reasons for granting the writ). Moreover, plaintiff stated in said petition, that said Appellate Court, in its opinion, branded the Master as being untruthful in his findings, branded the Master's findings as false on numerous instances (for particulars see Reasons for granting the writ). The judgment appealed from is based solely and exclusively on said Master's findings, which findings are manifestly false according to said Appellate Court itself (see supra), thus said judgment is automatically false, hence again said decision of said Appellate Court which affirmed said false judgment is automatically false by said Appellate Court's own findings (see supra). Plaintiff continued therein, that consequently, said Appellate Court has proven by itself that its opinion and decision in said appeal are multiply false and, hence, multiply void by all means. Plaintiff added, that even according to said opinion of said Appellate Court, although false, there is nothing binding on plaintiff in any way, for said Appellate Court did not find that plaintiff agreed, because plaintiff did not agree to an alleged "agreement of defendant" on his own to cancel literally for nothing the restrictive covenant for which plaintiff had paid to de-

fendant just 3 months before $110,000.00, for a contract can come into being only by mutual agreement of all parties involved. *I.L.P. Volume 12, Contracts, Section 31.* Plaintiff concluded aforesaid petition for rehearing with a statement that the invalidity of aforesaid opinion and decision, which are multiply false and, therefore, multiply void by said Appellate Court itself, is well settled by the laws (quoted therein). Moreover, plaintiff continued, that said Appellate Court by its action, and particularly by having conjured up by itself a chain of fictitious facts for the purpose of rendering a false decision in said appeal, has totally destroyed the Constitution of the United States of America, all civil rights, and all laws designed to protect the life and property of the people, which constitute open tyranny and anarchy tending to destroy the United States of America.

Said petition for rehearing remained unanswered by defendant.

Plaintiff further submitted to said Appellate Court a motion to disqualify itself from hearing aforesaid petition for rehearing on the ground of conflict of interest on the part of aforesaid Appellate Court, which is documented simply by the fact that said Appellate Court had conjured up by itself a chain of fictitious facts upon which it has based its opinion and decision in aforesaid appeal. Said Appellate Court denied said motion, and said petition for rehearing as well on May 8, 1970, without opinion.

A sworn petition for leave to appeal as a matter of right and of law to the Supreme Court of Illinois was filed on June 9, 1970, likewise Pro Se, which remained likewise unanswered by respondent, was denied on October 5, 1970, without opinion. No rehearing was requested.

Your petitioner is compelled to prepare the foregoing petition for a writ of certiorari by himself, without legal counsel, under very difficult circumstances, for the reasons described above.

On October 24, 1970, your petitioner petitioned this Honorable Court to appoint counsel for the preparation of the foregoing petition for a writ of certiorari, at petitioner's expense, in view of aforesaid petitioner's inability to procure counsel, who would be willing to represent petitioner in said matter (see supra). The Clerk of this Court in his letter dated November 5, 1970, stated "This Court may appoint counsel only in the event that it grants petition for a writ of certiorari" (Appendix L).

RAISING THE FEDERAL QUESTIONS.

This is a case of novel impression and concerns not only your petitioner but the People as a whole, for the results which flow from this case decide about the survival of our society and existence of the United States of America.

In this case, said Appellate Court for the purpose of rendering a false decision in said appeal, has CONJURED UP by itself a long chain of fictitious facts upon which it has based its opinion from which it has also deliberately excluded all true evidence decisive to a fair decision in said appeal as is more fully set forth hereafter in the Reasons for granting the writ.

In addition, said Appellate Court has proven, by itself, that its decision in said appeal is manifestly false, for said decision is contrary to said Appellate Court's

own findings (see Reasons for granting the writ). Said Appellate Court, for example, did not find that your petitioner, who is the plaintiff in this case, agreed, because petitioner did not agree to an alleged "defendant's agreement" on his own to cancel literally for nothing the Restrictive Covenant for which plaintiff had paid to defendant just 3 months before *$110,000.00*, and said appeal is only about said alleged "defendant's agreement" on his own (see Reasons for granting the writ).

Moreover, said Appellate Court, in its opinion, branded the Master as being untruthful in his findings, branded the Master's findings as false on numerous instances (see Reasons for granting the writ), and petitioner shall now cite at least one such instance:

> *Said Appellate Court on page 4 of its opinion found that plaintiff executed Exhibit No. 2 (ADDENDUM) about one week before December 1, 1961, ONE copy.*
>
> *The Master found that plaintiff executed Exhibit No. 2 (ADDENDUM) on December 1, 1961, TWO copies* (Appendix E, pp. 20a, 28a).

It must be noted, that said facts are of essential importance to said appeal.

Aforesaid facts, even standing alone prove by themselves overwhelmingly that the decision of said Appellate Court, in said appeal is definitely false, by all means, for the following reasons:

> (1) In the light of said facts either the findings of said Appellate Court or of said Master in Chancery are definitely false.
>
> (2) Assuming said Appellate Court's findings would have been true, then the Master's findings are false.

(3) The Judgment appealed from is based solely and exclusively on said Master's findings (see Reasons for granting the writ), which findings are manifestly false according to said Appellate Court (see supra), hence, said Judgment is automatically false according to said Appellate Court itself.

(4) The decision of said Appellate Court affirmed said *false Judgment*, therefore, *said decision is automatically false* by said Appellate Court's own findings (see supra).

(5) If, however, said Appellate Court's findings are false, *then its decision in said appeal is automatically false and automatically void, by all means.*

CONSEQUENTLY, SAID APPELLATE COURT HAS PROVEN BY ITSELF, THAT ITS OPINION AND DECISION IN SAID APPEAL ARE MULTIPLY FALSE AND HENCE MULTIPLY VOID, BY ALL MEANS.

In fact, even according to said opinion of said Appellate Court, although false, *there is nothing binding on your petitioner in any way, for said Appellate Court did not find that your petitioner agreed, because he did not agree to an alleged "agreement of defendant" on his own* (see supra).

A basic principle of law is that anything which is proven false is VOID, as is, for example, counterfeit money. Therefore, the opinion and decision of said Appellate Court, in said appeal, having been proven by said Appellate Court itself as being false (see supra), cannot be enforced, *AND MUST BE DECLARED VOID* as is counterfeit money.

Moreover, said Appellate Court by its action has totally destroyed the petitioner's constitutional rights to a fair trial, and also the Constitution of the United States of America, all civil rights, and all laws designed to protect the life and property of the People.

It is the laws and the Courts of the Land which protect the life and property of its citizens. If, however, the Courts act improper, and CONJURE UP by themselves a long chain of fictitious facts for the purpose of rendering a false decision in an appeal, as said Appellate Court did in the case at bar, even the most liberal Constitution, the most protective civil rights, and the best laws are literally of no value whatsoever, leaving your Petitioner and the People as a whole exposed to open tyranny and anarchy tending to destroy the United States of America, *and those are the federal questions which flow from said case, and are being raised in this petition for a writ of certiorari.*

Therefore, in this case, consideration by this Court is virtually a must and duty on the ground that the opinion below not only conflicts squarely with the essential requirement of due process and equal protection of the laws, but the opinion below, consisting solely and exclusively of fictitious facts CONJURED UP by said Appellate Court itself for the purpose of rendering a false decision in said appeal, symbolizes open tyranny and anarchy tending to destroy the United States of America.

Therefore, this is not a case which symbolizes a struggle for justice by only one individual citizen, but by the People of the United States of America as a whole, who cry out not to be destroyed by tyranny and anarchy, which is so manifestly documented by aforesaid opinion of said Appellate Court.

REASONS FOR GRANTING THE WRIT.

1. The State Appellate Court for the First District of Illinois has flagrantly deprived your petitioner and the People as a whole of due process and equal protection of the laws by rendering an opinion consisting solely and exclusively of fictitious facts CONJURED UP by said Appellate Court itself, and all contrary to the true evidence in said case which was deliberately excluded by said Appellate Court from its opinion. Said Appellate Court by having CONJURED UP said chain of fictitious facts, has proven by itself that its opinion and decision in said appeal are manifestly false, and, therefore, VOID and unenforceable, as is counterfeit money. The results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

This is a case of novel impression and concerns not only your petitioner but the People as a whole, for the results which flow from this case decide about the survival of our society, of our Nation. No nation can maintain its existence by tyranny and anarchy. It is indisputable that tyranny and anarchy do exist when the Appellate Court, as in our case, for the purpose of rendering a false decision in an appeal has *CONJURED UP* by itself a chain of fictitious facts upon which it has based its false opinion from which it has also deliberately excluded literally all true evidence of the case. Such acts virtually abolish the American Constitution, all civil rights, and all laws designed to protect the life and property of the People.

Petitioner shall now outline the various documentary evidence in support of the argument as per aforesaid heading. In view of the nature of said argument the following lengthy documentary evidence must be discussed:

Your petitioner is the plaintiff in the above captioned matter.

The appeal herein involves defendant's alleged Affirmative Defense to the Complaint of plaintiff to enjoin defendant from opening a new medical office next door to plaintiff. Plaintiff had based his Complaint (A. 1-6) on the written Contract of Sale where defendant had sold his medical practice to plaintiff for *$185,000.00* (Appendix F). The basic consideration for said transaction was the RESTRICTIVE COVENANT, prohibiting defendant from practicing as a general practitioner within a radius of 15 miles from aforesaid medical practice with certain favorable exceptions to defendant (Appendix F). In fact, the RESTRICTIVE COVENANT was actually the transacted object, equivalent to the term of the sale of defendant's medical practice to plaintiff, and without said RESTRICTIVE COVENANT there wouldn't have been any transaction whatsoever. Plaintiff had paid to defendant for aforesaid RESTRICTIVE COVENANT alone *$110,000.00* on August 19, 1961 (A. 96, Appendix H).

Defendant, in his Answer to said Complaint of plaintiff claimed two alleged instruments as his alleged Affirmative Defense (A. 6-7, Appendices I and J). Plaintiff denied defendant's alleged Affirmative Defense (A. 23-25). It was, therefore, the burden of defendant to prove his alleged Affirmative Defense by a preponderance of the evidence. *Dick* v. *Holum*, 344 Ill. 163; *Villegas* v.

Kerchner, 11 Ill. App. 2d 282; *Bauer* v. *Sauer*, 6 Ill. App. 2d 178.

This was a Master in Chancery case. The Master, by his own findings, completely discredited defendant's alleged version of his alleged Affirmative Defense to plaintiff's Complaint (A. 20, 42-47, 54-55, 83, 210, 226, 234). The Master, by his own findings, completely discredited the testimony of defendant's MANUFACTURED and only witness, "typist clerk", who was supposed to corroborate defendant's alleged version of his alleged Affirmative Defense (A. 150-153, 156-157, 210, 226, 234). The Master, by his own findings, fully accepted, however, the testimony and evidence of plaintiff (A. 104, 189-192, 205-210, 226, 234, Appendix E, pp. 20a, 28a). In fact, the Master, by his own findings, branded defendant and his MANUFACTURED witness, "typist clerk" as PREVARICATORS (Appendix E, pp. 20a, 28a). The Master by said action virtually wiped out any alleged case for defendant. The Master, despite having found all of the evidence in favor of plaintiff made a recommendation in favor of defendant, which is contrary to the law, evidence, and to the Master's own findings (Appendix E, pp. 20a, 28a). The Chancellor affirmed said Master's recommendation and issued a judgment dismissing plaintiff's Complaint (A. 283-284). Plaintiff took an appeal from aforesaid judgment to the Illinois Appellate Court for the First District. *Plaintiff's contentions in said appeal were*:

(1) That defendant by his own testimony and action has proven by himself the total falsity, fiction, and invalidity of his own alleged Affirmative Defense to plaintiff's Complaint.

(2) That the writing of an alleged Exhibit No. 3 which constitutes the sole basis of defendant's al-

leged Affirmative Defense was proven by defendant himself as being totally false, thus establishing firmly that defendant's alleged Affirmative Defense is false and VOID.

(3) That the contents of an alleged Exhibit No. 3 is false and contradictory in itself, contrary to human logic, and, therefore, false and VOID, thus establishing firmly once again that defendant's alleged Affirmative Defense is automatically FALSE and automatically VOID.

(4) That even the total lack of consideration for an alleged Exhibit No. 3 proves by itself that hence defendant's alleged Affirmative Defense is totally false and totally void.

(5) That the Master's recommendation is virtually directly adverse to all evidence, and to the Master's own findings, *for the Master did not find that plaintiff ever considered, discussed, gave a consent to defendant to prepare an alleged Exhibit No. 3, nor that said alleged Exhibit No. 3 was ever delivered to plaintiff, nor executed by plaintiff.*

(6) That the Master by his own findings, for the Master found that defendant delivered to plaintiff on December 1, 1961 only two identical copies of Exhibit No. 2 (Addendum) supposed to be for the Internal Revenue, and that plaintiff executed the same and nothing else, nor at any other date, established the total invalidity of his own recommendation upon which the judgment appealed from is being based. Therefore, said judgment is automatically VOID.

All contentions of plaintiff were literally not disputed by defendant in said appeal. **Despite that, said Appellate Court decided in favor of defendant.**

Defendant claimed as his alleged Affirmative Defense to plaintiff's Complaint two alleged instruments; to-wit: a so called ADDENDUM, Defendant's Exhibit A, and another so called AMENDMENT, Defendant's Exhibit B (A. 6-7). The Master erroneously and deliberately marked aforesaid ADDENDUM as Plaintiff's Exhibit 2 (Appendix I), and aforesaid alleged AMENDMENT as Plaintiff's Exhibit 3 (Appendix J). The Appellate Court in its opinion, obviously for the purpose of misleading the reader of said opinion, called, on its own, aforesaid ADDENDUM, Exhibit No. 2, and aforesaid alleged AMENDMENT, Exhibit No. 3. Thus nobody knows now to whom actually said exhibits belong, keeping in mind, that said exhibits constitute the crux of said appeal.

The Appellate Court, ***on page 2*** **of its opinion, stated:**

> ***"Defendant filed as part of his affirmative defense to plaintiff's complaint for an injunction, a certain document, Exhibit No. 3."***

As stated above, defendant's alleged Affirmative Defense consists solely and exclusively of the aforesaid alleged two instruments and nothing else (A. 6-7). Said Appellate Court purposely did not quote in its opinion the text of aforesaid Exhibit No. 2 (ADDENDUM), attached hereto as Appendix I.

Said Appellate Court has deliberately excluded from its opinion the very essential fact that by defendant's own testimony he prepared and typed by himself, at his home, aforesaid Exhibit No. 2 (ADDENDUM) ***in two copies, an original, and a carbon duplicate thereof,***

and gave said two identical copies of said Exhibit No. 2 (ADDENDUM) to plaintiff to sign them (A. 42), as a favor to defendant (A. 102). As for the reason for the creation of aforesaid Exhibit No. 2 (ADDENDUM) defendant stated, that it *"would create a tax benefit"* to him, because the "original" Contract of Sale (Appendix F) was not an Instalment Contract (A. 17-18, 76).

Defendant perjured himself right on the spot, since in lines 1 and 10 of aforesaid Exhibit No. 2 (ADDENDUM) defendant referred to said Contract of Sale as an *Instalment Contract*. Therefore, said Exhibit No. 2 was an absolute unnecessary instrument for defendant. Furthermore, defendant has deliberately suppressed the fact that he had in his possession the *Instalment Trust Deed Note* (Appendix G), which, besides being an *Instalment Note* on its face, gave defendant the exclusive right to instruct plaintiff where to pay the monthly instalment, without plaintiff's consent whatsoever.

In fact, defendant by himself disregarded said phony Exhibit No. 2 by picking up personally the monthly checks (A. 105). Therefore, Exhibit No. 2 (ADDENDUM), once again was an absolute unnecessary instrument for defendant. Defendant's entire reason given for the creation of aforesaid Exhibit No. 2 (ADDENDUM) was totally false and a hoax, since according to *Section 453 of U.S.I.R. Code of 1954* defendant did not even qualify for any tax benefit, because he received at the closing date of that transaction (August 19, 1961) ⅔ of the transacted amount of money, *$117,000.00* (Appendix H). *Section 453 of I.R. Code of 1954* prohibits the use of the Instalment Method if more than 30% of the transacted amount of money is paid in the year of sale.

Therefore, once again, Exhibit No. 2 (ADDENDUM) was an absolute unnecessary instrument for defendant. Yet, said Appellate Court *on page 3* of its opinion simply stated that aforesaid Exhibit No. 2 (ADDENDUM) *"would allow defendant certain income tax advantages"*, without mentioning that this was a patent falsehood and hoax as outlined above, and, incidentally, totally not disputed by defendant in said appeal.

As to the date when said Exhibit No. 2 (ADDENDUM) was signed, defendant was very reluctant to give any date (A. 40-41), then stated *"it would be about December 1, (1961)"* (A. 42). Subsequently, he changed his sworn testimony and stated that Exhibit No. 2 (Addendum) was signed *"four or five days or a week"* before December 1, 1961, around 4 o'clock (A. 83).

The Appellate Court deliberately excluded from its opinion aforesaid essential facts, and flatly stated *on page 4* of its opinion that said Exhibit No. 2 (Addendum) *"was executed 4 or 5 days or a week before Exhibit No. 3"*, and obviously to fortify said false fact said Appellate Court stated *on page 5* of its opinion that defendant's witness *"had no recollection of ever having seen Exhibit No. 2 on December 1, 1961"* (it will be shown later in this Petition that said witness was a manufactured witness). And said Appellate Court, to mislead even further the reader, stated *on page 4* of its opinion *"only one copy of Exhibit No. 2 was executed"*.

Said Appellate Court has deliberately excluded from its opinion the most decisive fact of this appeal that *the Master FOUND that aforesaid TWO IDENTICAL COPIES OF EXHIBIT No. 2 (ADDENDUM) WERE EXECUTED BY PLAINTIFF BEING ALONE IN THE*

ROOM AT 7 P.M. OF DECEMBER 1, 1961 (Appendix F, pp. 20a, 28a), and nothing else, which is contrary to said Appellate Court's findings. Said Appellate Court, therefore, by its action (aforesaid findings) branded the Master as being untruthful in his findings, *branded the Master's findings as false*, keeping in mind, that the judgment appealed from is based exclusively on said Master's findings, which are false, according to said Appellate Court (see supra).

Just glancing at the writing of said Exhibit No. 2 (Addendum) it must be said that from any legal viewpoint said Exhibit No. 2 did not require plaintiff's signature whatsoever, since it clearly states in the last 3 lines, that said funds *"at the discretion of the seller (defendant), and only by the seller in total or any fraction thereof be withdrawn"*. Said Appellate Court *on page 2* of its opinion has deliberately quoted a part out of context, that said Exhibit No. 2 provided that defendant *"was not to make any withdrawals therefrom until January 2, 1963"*, omitting purposely the phrasing therefrom *"at the discretion of the seller, and only by the seller"*, which clearly shows that plaintiff's signature therein was totally unnecessary.

In summary: It has been shown that literally all evidence proves that aforesaid Exhibit No. 2 (ADDENDUM) was a completely unnecessary instrument for defendant, that it was created under totally false pretexts, and, above all, *that it did not require plaintiff's signature whatsoever*, which shows manifestly that this was a tool for defendant to lure plaintiff purposely into signing of unnecessary instruments. All said documentary and vital facts are deliberately excluded by said Appellate Court from its opinion.

The second alleged instrument claimed by defendant as his alleged Affirmative Defense was an alleged and so called by said Appellate Court Exhibit No. 3, appended hereto as Appendix J. Note the misspelling of the word *"sction"* appearing in said alleged Exhibit No. 3. Note the lack of the word *"M.D."* from the signature of Stanley Turzynski therein, and the discrepancy between the signature and the typed in below name of Stanley Turzynski containing the word "M.D.". It is important to note, as asserted by plaintiff in his brief before the Appellate Court (pp. 47-48), and which was not disputed by defendant, that the lack of the word "M.D." from the signature of Stanley Turzynski therein proves once again that said alleged Exhibit No. 3 was a copy of the original of Exhibit No. 2 (Addendum) (A. 211), and as such it did not require the official word "M.D.", nor the location "Chicago" as it appears in the original of Exhibit No. 2 (Appendix I). It is further important to note that from a logical viewpoint, if said alleged Exhibit No. 3 would have been a true instrument it certainly would require the word "M.D." to the name of Stanley Turzynski.

The Appellate Court *on page 3* of its opinion deliberately added, *on its own*, the word "M.D." to the signature of Stanley Turzynski, and, *on its own*, corrected the spelling of the word *"sction"* therein.

A short glance at the writing of said alleged Exhibit No. 3 proves instantly that it is a *FICTION*, for it is a *falsehood* in itself, a *contradiction* in itself, *contrary to human logic*, and, therefore, triply *VOID* from any legal viewpoint. It is obvious that if plaintiff desired to capitalize financially *"on the good name and offices"* of defendant for which plaintiff had paid to defendant *$110,000.00* he must maintain said Restrictive Covenant and not cancel it, thus bringing back said defendant next door to plaintiff (A. 275). Therefore, the writing of said alleged Exhibit No. 3 is a falsehood in itself and *VOID*, hence defendant's alleged Affirmative Defense, which is based exclusively on said alleged Exhibit No. 3, is automatically *VOID. The Appellate Court has deliberately excluded from its opinion aforesaid most decisive facts.*

Furthermore, defendant, by his own testimony has proven that said alleged Exhibit No. 3 is totally false. As noted, said alleged Exhibit No. 3 consists of two paragraphs.

Paragraph ONE states, that the Restrictive Covenant is of *"questionable validity"*. However, by defendant's own testimony *plaintiff allegedly did not agree to aforesaid alleged legal advice of defendant* (A. 53). Therefore, said paragraph is manifestly false, even according to defendant himself. In fact, there was never a discussion between the parties about the validity of the Restrictive Covenant, even according to defendant, as it will be shown in the following points of this petition. There is not even a date given by defendant of such alleged discussion (A. 53).

Paragraph TWO states that plaintiff desires to capitalize financially *"on the good name and offices"* of defendant by cancelling the Restrictive Covenant. But there

is not a single word in the record of this case substantiating said insane paragraph TWO, which even technically it wouldn't be possible to carry out (see supra). Therefore, paragraph TWO is manifestly false as well. *And all said decisive facts are purposely excluded by said Appellate Court from its opinion.*

By defendant's own testimony plaintiff *"had a convulsion almost"* upon the discovery of defendant's intention to open a new medical office next door to plaintiff (A. 87), which proves once again that said alleged Exhibit No. 3 is a patent fiction, even according to defendant. Said fact proves once again the total falsity and invalidity of defendant's alleged Affirmative Defense, which was based exclusively on said alleged Exhibit No. 3, *but all said decisive facts are deliberately excluded by said Appellate Court from its opinion.*

By defendant's own testimony he prepared and typed said alleged Exhibit No. 3 by himself, at his home, on November 30, 1961, without the consent of plaintiff (A. 18, 42). The Master did not find that plaintiff ever gave a consent to defendant to prepare aforesaid alleged Exhibit No. 3. Therefore, aforesaid alleged Exhibit No. 3 was manifestly defendant's "Amendment" on his own, thus it is legally VOID in any way, *for a contract can come into being only by a mutual consent of all parties involved. I.L.P. Volume12, Contracts Section 31. The Appellate Court has deliberately excluded from its opinion all said vital and decisive facts.*

Said Appellate Court *on page 4* of its opinion has *CONJURED UP* by itself the following fictitious fact:

> *"This had been discussed in the previous months as well as the release of defendant from the restrictive covenant".*

The fictitiousness and invalidity of said statement is documented simply by the fact that, even *the Master did not find that there was ever a discussion between the parties about an alleged releasing of defendant from the restrictive covenant.* Thus, the Appellate Court by its CONJURED UP by itself alleged findings branded once again the Master as being untruthful in his findings, *branded once again the Master's findings as false.*

By defendant's own testimony (A. 43-47) he allegedly had 3 conversations with plaintiff at the medical center during the course of his employment there, but he could not recall the dates, except for ONE, namely on "November 30, 1961, the day before it was dated" (A. 44, 46). However, said defendant testified that 2 out of the alleged 3 conversations were only in regard to his employment and only on November 30, 1961, he allegedly told plaintiff that he wanted to be released "from being banished from the city". Incidentally, defendant has not been "banished" from Chicago, which is documented by paragraph 6 of the Contract of Sale (Appendix E). In Answer 21 of Interrogatories (A. 20) defendant stated that he was off on November 30, 1961, and therefore, absent from the medical center (Appendix K). The conclusion therefrom is clear that defendant by his own testimony has proven that there was never a discussion between him and plaintiff regarding an alleged cancellation of the Restrictive Covenant. And the record further shows that defendant never rebutted plaintiff's repeated testimony that there was never a discussion about an alleged cancellation of the restrictive covenant (A. 102, 192, 193). *All said facts were purposely excluded by the Appellate Court from its opinion.* The Appellate

Court *on page 4* of its opinion CONJURED UP by itself the following fictitious fact:

> *"But two copies of Exhibit No. 3 were executed by the parties".*

The fictitiousness and invalidity of said statement is documented simply by the fact that even the Master did not find that an alleged Exhibit No. 3 was ever executed by plaintiff, because there is no evidence to that effect. By defendant's own testimony, which was totally discredited by the Master, only ONE copy of an alleged Exhibit No. 3 was allegedly signed (A. 54), which proves doubly once again the fictitiousness and invalidity of said Appellate Court's findings. Defendant stated that he didn't sign the alleged yellow copy of an alleged Exhibit No. 3, because *"I was interested in my copy for my files. He didn't ask me to. If he would have, I would have signed it"*. (A. 54).

The Appellate Court *on page 4* of its opinion CONJURED UP by itself the following fictitious fact:

> *"(both parties executed) a white one and a yellow copy which defendant handed to plaintiff's typist-clerk".*

The fictitiousness and invalidity of said finding is documented by the evidence described above, which proves doubly that said alleged yellow copy was not signed, even according to defendant (A. 54). Thus, the Appellate Court by its fictitious finding *branded once again the Master's findings as false,* for the Master did not find that either a white, nor a yellow copy was ever executed by plaintiff, because there is no evidence in the record to that effect.

The Appellate Court purposely excluded from its Opinion the vital fact that the Master wiped virtually out any alleged case for defendant and branded him as a PREVARICATOR by completely discrediting defendant's testimony about an alleged signing of an alleged Exhibit No. 3, described by defendant as follows (A. 54-55):

> "He signed it. • • • I picked up my copy in his presence and *his copy* (unsigned) and turned to his secretary and said it (the unsigned copy) is an important agreement. Put it in Dr. Turzynski's file which she did that in his presence. That's what happened."

By the testimony of said "secretary", she was not plaintiff's secretary (A. 145), and plaintiff never had a secretary (A. 142). The Appellate Court *on page 4* of its opinion, on its own, flatly replaced the word secretary with the word *"typist-clerk"*. The Appellate Court purposely excluded from its opinion that aforesaid "typist-clerk" was actually a receptionist (A. 145), who was hired for said employment by defendant's secretary (A. 172), that at the time she was only for about ONE month in said employment (A. 141), that there were more girls employed at the time when she was (A. 168), that she was hostile to plaintiff by her own testimony (A. 168), and that she was a manufactured witness which will be shown in the following points of this petition.

The Appellate Court purposely excluded from its opinion the vital and decisive fact that defendant at no time rebutted plaintiff's repeated testimony that plaintiff never signed an alleged Exhibit No. 3 (A. 109, 131, 189, 197, 211).

The Appellate Court *on page 4-5* quoted the following manufactured story:

"She (typist-clerk) had seen Exhibit No. 3 at that time (Dec. 1, 1961) and remembered defendant asked plaintiff to sign and plaintiff responded he would if defendant remained working for plaintiff. She recalls that plaintiff signed Exhibit No. 3 in her presence and there was a yellow copy. Defendant handed this yellow copy to her and told her it was a very important document and she should file it".

The falsity and invalidity of said alleged findings are documented by the following facts:

(1) The Master did not find that plaintiff ever executed either a white, nor a yellow copy of an alleged Exhibit No. 3.

(2) By defendant's own testimony there was no discussion with plaintiff on December 1, 1961 (A. 43-47), therefore, the testimony of said witness which was based exclusively on an alleged overhearing of an alleged discussion between plaintiff and defendant on Dcember 1, 1961 (A. 146-148), is automatically *manufactured*, even according to defendant.

(3) By defendant's own testimony aforesaid alleged yellow copy was not signed (A. 54), thus an unsigned piece of paper is not, as quoted by the Appellate Court *"a very important document"*. And the fact, in itself, of alleged giving by defendant, on his own, of an alleged *"very important document"* of plaintiff not to plaintiff, but to a strange girl, proves very clearly that the entire story of said quotation is a manufactured one.

(4) Said witness testified, that she allegedly was there "On or about December 1, 1961" hence proving by herself that she was not there, since we are dealing here with a specific time, namely December 1, 1961 (A. 146).

(5) Said witness testified, that she could not recall what time of the day, in the morning or evening, said alleged conversation took place, nor how long approximately said alleged conversation lasted (A. 152). She could, however, allegedly recall that *"there was a carbon copy, but there wasn't carbon paper underneath it"*, and, therefore, the alleged yellow copy was not signed (A. 149), which proves once again that she was a manufactured witness. According to common practice, each copy for each party would have been signed separately in the event an alleged agreement would have taken place. Hence, said witness has proven, by herself, that her testimony is manifestly manufactured and false, and that there was never an alleged agreement to cancel the restrictive covenant.

(6) Said witness testified, that she did not listen to an alleged conversation until she was told allegedly by defendant that this (the unsigned yellow copy) was a *"personal paper"* and it has to be put with his other papers (A. 152). However, in previous testimony she stated, that it was after an alleged conversation and after an alleged signing when defendant had allegedly told her to put away an alleged unsigned yellow copy (A. 146-147), which proves once again, by her own testimony, that she didn't listen to anything, and her testimony, therefore, was totally fabricated.

(7) Said witness testified, that her hours at the medical center were *"from 9 to 5"* (A. 157), and the Master found that the two copies of Exhibit No. 2 (Addendum) supposed to be for the Internal Revenue were signed by plaintiff at 7 P.M. of December 1, 1961, being alone in the room (Appendix E, pp. 20a, 28a). The Master did not find that plaintiff signed anything else besides said two copies of Exhibit No. 2 (Addendum), on December 1, 1961, nor at any other date, which proves once again that nothing had been signed in the presence of said witness, and said witness did not listen to anything, and, therefore, her testimony was purely manufactured.

(8) There is a lengthy, well documented argument in plaintiff's brief (pp. 20-26), totally undisputed by defendant, which proves once again that said witness, by her own testimony, was a manufactured witness, and an habitual PREVARICATOR.

(9) Said witness further testified that defendant didn't say anything to plaintiff to be released from the restrictive covenant, nor did he say anything that he wanted to amend, nor to change the agreement he had with plaintiff, he just asked plaintiff to sign the paper, without identifying the paper (A. 156). Therefore, even her fabricated testimony proves the total falsity and invalidity of defendant's alleged Affirmative Defense. Said witness also testified, that *SHE IS NOT SURE AND DOES NOT KNOW WHETHER Exhibit No. 3 IS THE EXACT PAPER THAT WAS SIGNED* (A. 150) *that she never read the signed copy, that she read it for the first time (in 1963) in the office of defendant's attorney* (A. 153). Consequently, said "typist-clerk", by her own testimony *DID NOT WITNESS AN ALLEGED SIGNING OF AN ALLEGED Exhibit No. 3* (A. 150), nor *DID SHE SEE AN ALLEGED Exhibit No. 3 on December 1, 1961* (A. 150, 153), nor *DID SHE LISTEN TO ANYTHING ON December 1, 1961* (A. 146, 152), and hence according to her own testimony she was a manufactured witness (A. 151, 152, 157; see *supra*).

(10) As stated previously, the Appellate Court CONJURED UP by itself on *page 4* of its opinion fictitious facts that there were alleged discussions *"in the previous months"* to cancel the Restrictive Covenant. If the Appellate Court's findings would have been true, there would not have been a necessity for defendant to go on allegedly again with the entire story on December 1, 1961, to

ask plaintiff to sign and for plaintiff to respond *"he would if defendant remained working for plaintiff"* (page 4 of Opinion). Furthermore, said alleged Exhibit No. 3 states on its face 3 months of employment (Appendix J), and, therefore, there wouldn't have been necessary for plaintiff to say he will sign it *"if defendant remained working for plaintiff"* (page 4 of Opinion). And according to said findings (*page 4* of Opinion) an alleged Exhibit No. 3 was allegedly signed despite the lack of acceptance to that deal by defendant. The contradictions of aforesaid findings prove by themselves that said alleged findings of the Appellate Court are false, contrary to human logic *and, therefore, void.*

(11) It must be emphasized that on December 1, 1961, (the date which the alleged Exhibit No. 3 bears) the transaction of having paid to defendant $110,000.00 for said Restrictive Covenant alone was only 3 months old (A. 96, Appendix H). It would then appear, according to said Appellate Court's findings (*page 4 of said Opinion*) that plaintiff from the first day on after having paid to defendant *$110,000.00* for said Restrictive Covenant, or better, even before plaintiff had bought said Restrictive Covenant from defendant, plaintiff allegedly would have negotiated with defendant to give back to him said Restrictive Covenant in exchange for "defendant's agreement" to remain employed for an additional 3 months beyond December 1, 1961. Said alleged finding is not only non existent in the record, contrary to the evidence in the record, but contrary to human logic, and, therefore, doubly false and doubly fictitious in itself. Said fact, as many others described above constitute firm documentary evidence, far beyond the requirement of a criminal court, *that said Appellate Court for the purpose of rendering*

a false decision in said appeal CONJURED UP by itself a chain of fictitious facts upon which it has based its opinion in said appeal.

The Appellate Court purposely excluded from its opinion the most decisive fact that the Master NEVER FOUND that defendant delivered to plaintiff on December 1, 1961, nor at any other date, anything else besides said TWO COPIES of Exhibit No. 2 (Addendum) supposed to be for the Internal Revenue, and that plaintiff executed the same on that day (Appendix E, pp. 20a, 28a). It is crystal clear that nothing can be signed without being delivered. Therefore, if an alleged Exhibit No. 3 was lodged inconspicuously underneath the original of Exhibit No. 2 to pose as the copy of said Exhibit No. 2, as disclosed during the trial proceedings (A. 211), without being delivered by anybody, by the Master's own findings (Appendix E, pp. 20a, 28a), it stamped automatically said alleged Exhibit No. 3 as a patent falsehood and fiction, and defendant's alleged Affirmative Defense which was based exclusively on said alleged falsehood as VOID. *McGinn* v. *Toben*, 62 Mich. 252; 88 N.W. 818. Keep in mind the essential fact, that by defendant's own testimony defendant gave to plaintiff two identical copies of aforesaid Exhibit No. 2 (Addendum) to be signed by plaintiff (A. 42), as a favor to defendant (A. 102), and that plaintiff did not keep the copy of the aforesaid Addendum (Exh. No. 2) (A. 83). Said fact makes up the whole case under consideration, thus proving manifestly once again that the decision in this appeal by said Appellate Court is gravely erroneous and contrary to the law and evidence. Said appeal is only about the signature of plaintiff on an alleged Exhibit No. 3, which the Master never found that it was ever considered, discussed, con-

sented by plaintiff to prepare it, known to plaintiff, delivered unto plaintiff, nor executed by plaintiff. *And all said vital and decisive facts were purposely excluded by the Appellate Court from its opinion.*

Plaintiff contended in this appeal (pp. 64-69 of plaintiff's brief) that even the total lack of consideration for an alleged Exhibit No. 3 proves by itself, even standing alone, that it is a falsehood and a fiction and void. Hence, defendant's alleged Affirmative Defense which was based exclusively on said alleged Exhibit No. 3 is automatically void. The Appellate Court purposely excluded from its opinion literally all evidence supporting said decisive fact, such as:

(1) That plaintiff had paid to defendant just 3 months before for said Restrictive Covenant alone (medical practice) *$110,000.00* (A. 96), which was totally not rebutted by defendant, and the Proration Statement signed by both parties list a balance for the Medical Practice (restrictive covenant) alone $68,000.00 (Appendix H).

(2) That accounts receivable were literally NONE (A. 137), not rebutted by defendant, on the contrary, there was a long list of unpaid bills of defendant to be paid by plaintiff (A. 260-261).

(3) That by defendant's own testimony said Medical Practice consisted of a *"great number of industrial accounts"* (A. 36); said practice had *"45 patients a day"* (A. 73); *the Income from said practice in 1960 was $150,000.00* (A. 39).

(4) That defendant was obliged under Paragraph 5 of the written Contract of Sale (Appendix F) to use the "BEST OF HIS EFFORTS" to render a smooth trans-

fer of the practice to plaintiff and for that purpose to remain employed there for 3½ months until December 1, 1961, but instead of remaining there 3½ months defendant stayed only 20 days with a paid salary to him daily of $50.00 a day, a fact proven by defendant's own testimony (A. 56-58, 84-85), by defendant's own exhibit (Def. Group Exh. 2—Appendix K), a fact totally unrebutted by defendant (A. 96-97, 111). Therefore, the 27 days of employment beyond December 1, 1961, should have been actually construed as part of defendant's obligations under the terms of aforesaid Par. 5, and without the increased double salary.

(5) That defendant induced plaintiff to continue defendant's intermittent daily employed beyond December 1, 1961, *on "a day to day basis"*, guaranteeing satisfaction, but *demanded for it a double salary from $50.00 to $100.00 a day* (A. 111-112, 126, 135-136). All said facts were not only not rebutted by defendant, but, indeed, confirmed by defendant's own exhibit (Appendix K).

(6) That defendant stayed there after December 1, 1961, for 27 days intermittently, on *"a day to day basis"*, as per verbal agreement between the parties (A. 111, 126, 135, Appendix K). A day means only 5 hours (A. 124), and all said facts were totally unrebutted by defendant. Defendant admitted of having received said 100% increased salary paid to him daily (A. 48, 84).

(7) That defendant at no time introduced plaintiff to defendant's patients, nor to industrial accounts (A. 136-137), nor was there any change in the number of patients during defendant's stay there (A. 125), which was totally undisputed, or unrebutted by defendant.

The Appellate Court cited *on page 8* of its opinion plaintiff's proposition in connection with plaintiff's assertion that even the total lack of consideration for said alleged Exhibit No. 3, even standing alone, proves by itself, that it is a falsehood and, therefore, void, the case of *Schwarz* v. *Resnick*, 257 Ill. 479. In that case plaintiff received a worthless property in exchange for a worthful farm, and the court therein held that the inadequacy of consideration in that deal was so great as to shock the conscience of the court, and reversed the judgment.

In the case at bar, in contrast to aforesaid *"Schwarz"* who received in exchange at least a worthless property, plaintiff according to said alleged Exhibit No. 3 *would have received literally NOTHING* from defendant for $110,000.00 paid to him for said Restrictive Covenant 3 months before (A. 96, Appendix H), *for the 100% increase in defendant's salary from $50.00 to $100.00 a day constituted the consideration for the 27 days of defendant's employment there after December 1, 1961* (see supra).

Therefore, in the case at bar is not only a "Pitiful inadequacy" of consideration as in aforesaid *Schwarz's* case but a TOTAL LACK OF CONSIDERATION for an alleged Exhibit No. 3 as to shock the conscience of the court, which proves by itself once again, even standing alone, the total falsity and invalidity of defendant's alleged Affirmative Defense. The requirement of equity to intervene in the case at bar, if at all necessary, was not only a choice but an absolute necessity, an absolute must demanded by law to which the Appellate Court erroneously did not adhere. *Schwarz* v. *Resnick*, 257 Ill. 479; *Page* v. *Keeves*, 362 Ill. 64; *Spencer* v. *Wilsey*, 330 Ill. App. 439; *Illinois Kaolin Co.* v. *Goodman*, 252 Ill. 99.

The Appellate Court in its attempt to cover up the issue of the total lack of consideration for said alleged Exhibit No. 3 cited *on page 8* of its opinion *Paragraph 5* of the written Contract of Sale of defendant's Medical Practice to plaintiff for $185,000.00 (Appendix F). Besides the fact that said *Paragraph 5* has literally nothing to do with said alleged Exhibit No. 3, because aforesaid *Paragraph 5* is a part of the transaction and condition of selling of defendant's Medical Practice to plaintiff (Appendix F), it in no way constitutes any evidence showing that there was not a total lack of consideration for said alleged Exhibit No. 3. Therefore, the quotation in itself of *Paragraph 5 on page 8* of its opinion constitutes another documentation of the Appellate Court's attempt to mislead the reader of said opinion. Said misleading intention is further documented by the fact that the Appellate Court deliberately withheld the decisive evidence which shows that the consideration for the *27 days* of defendants' stay there on *"a day to day basis"* after December 1, 1961, which actually should have been construed as part of defendant's obligations under said Par. 5, was the *100% increase in defendant's salary from $50.00 to $100.00 a day, paid to him daily,* which was admitted by defendant (A. 48, 84, 111, 126, 135, Appendix K, see also supra). Furthermore, the Appellate Court deliberately withheld the most decisive fact that plaintiff had paid to defendant for said Restrictive Covenant alone *$110,000.00* (A. 96, Appendix H). And speaking about *Paragraph 5* it must be noted that the Appellate Court *on page 4* of its opinion stated erroneously:

> *"Defendant's obligations in this regard pursuant to the original agreement (Paragraph 5) were fulfilled".*

Said statement is gravely contrary to the evidence described above, which proves that defendant HAD NOT FULFILLED his obligations in accordance with aforesaid *Paragraph 5* of the Contract of Sale (A. 96-97, 111, 136-137, Appendix F, Appendix K).

The Appellate Court *on pages 5-6* of its opinion in its attempt to mislead the reader of said opinion brought in, on its own, the issue of *"fraud"* which is beyond the scope of said appeal, and a ruling on that matter is contrary to the law. Neither plaintiff, nor defendant contended *"fraud"* in this appeal. In fact, even the abbreviated points of plaintiff's briefs quoted by the Appellate Court *on page 2* of its opinion prove that there is nothing about "fraud".

The bringing into said opinion of the word "fraud" was a well premeditated trick calculated by the Appellate Court for the purpose to come up on *page 9* of its opinion with the cynic slogan *"plaintiff failed to establish fraud by clear and convincing evidence that the mind is well satisfied that the charge is true"*.

It must be reiterated, that the burden of proving defendant's alleged Affirmative Defense rests solely with defendant who asserted it, and not with plaintiff. *Dick* v. *Holum*, 344 Ill. 163; *Gearon* v. *Airways Fireproofing System, Inc.*, 8 Ill. App. 2nd 317; *Osgood* v. *Groseclose*, 159 Ill. 511; *Consoer, Townsend Ass.* v. *Addis*, 37 Ill. App. 2nd 105; *Villegas* v. *Kerchner*, 11 Ill. App. 2nd 282; *Bauer* v. *Sawyer*, 6 Ill. App. 2nd 178. Therefore, plaintiff did not fail to prove anything.

And the Appellate Court in its attempt to enforce said deliberate judicial blunder committed the most scandalous judicial fraud in the global history, as described in this

petition, and all for the purpose to come up on *page 9* of its opinion with a totally unfounded finding *"that defendant established his affirmative defense"*. However, the *CONTRARY TO SAID ALLEGED FINDING* was proven by the Appellate Court itself, by its own finding on *page 8* of its Opinion, for said court *DID NOT FIND THAT PLAINTIFF AGREED,* because plaintiff did not agree to an alleged *"defendant's agreement"* on his own, to cancel literally for nothing the restrictive covenant for which plaintiff had paid to defendant $110,000.00 just 3 months before (A. 96, Appendix H). There cannot be a contract, without the mutual meeting of minds of all parties involved. *I.L.P., Volume 12, Contracts, Section 31.* Hence, by the Appellate Court's own findings defendant *DID NOT ESTABLISH* his alleged affirmative defense (see further Reasons for granting the writ).

In the light of aforesaid facts, it is crystal clear that to argue this case as a matter of *"fraud"* would have been like to argue the *VALUE OF ZERO*. The issue in this appeal is solely defendant's alleged Affirmative Defense which was based exclusively on an alleged Exhibit No. 3. But defendant, by his own testimony and action (defendant's unsuccessful attempt to support his alleged affirmative defense by the use of a manufactured witness), and the writing of said alleged Exhibit No. 3 which is a falsehood in itself, including the total lack of consideration for it, prove manifestly the *FALSITY AND INVALIDITY OF DEFENDANT'S OWN ALLEGED AFFIRMATIVE DEFENSE* (see previous Argument). In fact, even the Master completely discredited defendant's and defendant's manufactured witness testimony, leaving virtually no case for defendant whatsoever (see previous Argument).

Therefore, *there is nothing left to argue anything, anymore in this* case, since further *argument would have been an argument about a non existent matter, about something which does not exist, and never existed.*

Concerning the arrangement of the copies lying on the table covering each other except for a space to sign, which physically and logically covered the letterhead and the contents of the second copy, said fact is well documented by the evidence in the record (A. 104, 207, 210), and by the findings of the Master (Appendix E, pp. 20a, 28a), which was never disputed by defendant, *but all said facts are purposely excluded by the Appellate Court from its opinion.*

The Appellate Court *on page 6* of its opinion stated that the alleged Exhibit No. 3 has typed in lines below the signatures, while Exhibit No. 2 has not. But the Appellate Court purposely excluded from its opinion the uncontroverted evidence which shows that there were no lines, nor was there defendant's signature on either copy when plaintiff signed aforesaid two copies of Exhibit No. 2 (ADDENDUM) covering each other (A. 104, 211). The aforesaid facts constitute documentary evidence which proves that defendant had typed in the lines, names, date, and signed in his own name as well afterwards.

Petitioner shall now summarize some of the decisive evidence deliberately excluded by said Appellate Court from its opinion:

(1) The Master did not find that anything else besides *two copies of Exhibit No. 2 (ADDENDUM)* supposed to be for the Internal Revenue were delivered by defendant to plaintiff on December 1, 1961, at 4 P.M.,

which plaintiff (after having read them) (A. 207) left them unsigned on the table in the office for about 3 hours, where he returned at 7 P.M., and found said two copies of ADDENDUM lying on the table (the Master had quoted C. 923-A. 207, C. 926-A. 209, which relates to the fact that said two copies of ADDENDUM covered each other, except for a space to sign, as demonstrated on A. 104) and *signed said two copies of ADDENDUM (Exhibit No. 2), being alone in the room* (Appendix E, pp. 20a, 28a), which fact was never disputed by defendant. *And by defendant's own testimony he gave to plaintiff two* identical copies of ADDENDUM (Exhibit No. 2), an original and a carbon duplicate thereof, to sign them (A. 42), but he does not recollect whether plaintiff kept a copy thereof (A. 83).

(2) The Master *DID NOT FIND* that plaintiff ever considered, discussed, gave a consent to defendant to prepare an alleged Exhibit No. 3, nor *did the Master find* that an alleged Exhibit No. 3 was ever *delivered unto plaintiff, nor executed by plaintiff*, nor even known to plaintiff, which facts were never disputed by defendant.

(3) The Master discredited completely defendant's testimony, who stated that he prepared and typed an alleged Exhibit No. 3, by himself, *at his home, on November 30, 1961, without the consent of plaintiff* (A. 18, 42), that on December 1, 1961, at *4 P.M. ONE* copy of an alleged Exhibit No. 3 was allegedly signed and kept by defendant while another alleged *UNSIGNED* copy defendant, on his own, gave allegedly to an alleged "secretary" (A. 43, 54, 55). The Master, by his own findings (Appendix E, pp. 20a, 28a) discredited completely defendant's testimony, hence wiping out by said action any alleged case for defendant (see supra).

(4) According to defendant there was never an alleged agreement by plaintiff to an alleged cancellation of the restrictive covenant, nor was there even any discussion with plaintiff about an alleged cancellation of the restrictive covenant (A. 20, 43-47). Nor did defendant rebut plaintiff's repeated testimony that there was never even a discussion about an alleged cancellation of the restrictive covenant (A. 102, 107, 108, 192, 193), nor did the Master find that there was any discussion about an alleged cancellation of the restrictive covenant, thus proving once again the falsity and invalidity of defendant's alleged Affirmative Defense.

(5) By defendant's own testimony, even the writing of said alleged Exhibit No. 3 is totally false and fictitious (A. 53, 87). In fact, the writing of said alleged Exhibit No. 3, in itself, proves that it is a fiction, since it is a falsehood and contradiction in itself, contrary to human logic, and, therefore, legally INVALID. Thus, defendant's alleged Affirmative Defense, which was based exclusively on said alleged Exhibit 3, is automatically false and void.

(6) Defendant at no time rebutted plaintiff's repeated testimony that plaintiff never signed an alleged Exhibit No. 3, that he signed only two identical copies of Exhibit No. 2 (Addendum) on December 1, 1961, being alone in the room (A. 102-105, 109, 131, 189, 193, 197, 207-210, 211), which proves once again the falsity and invalidity of defendant's alleged Affirmative Defense.

(7) By defendant's own testimony plaintiff *"Had a convulsion almost"* upon the discovery of defendant's intention of coming back next door to plaintiff (A. 87), thus defendant has proven by himself, once again, the total

fidelity of said alleged Exhibit No. 3, and invalidity of his alleged Affirmative Defense as well.

(8) By defendant's own testimony said Practice had "a *great number of industrial accounts*" (A. 36), "*65 patients a day*" (A. 72), and the *income from said Practice in 1960 was $110,000.00* (A. 39), thus, proving once again the total lack of consideration for an alleged Exhibit No. 3, and therefore, its invalidity.

(9) Defendant never rebutted plaintiff's testimony and evidence that for the *Restrictive Covenant* (medical practice) *alone plaintiff had paid to defendant* $110,000.00 (A. 96, Appendix H), thus proving the total lack of consideration for an alleged Exhibit No. 3 and, therefore, its invalidity, and the invalidity of defendant's alleged Affirmative Defense as well, which was based exclusively on an alleged Exhibit No. 3.

(10) Defendant never rebutted plaintiff's testimony and evidence that out of the 3½ months defendant supposed to stay with plaintiff for the purpose of rendering a smooth transfer of the practice to plaintiff (Par. 5 of Contract of Sale—Appendix F). Defendant stayed only 20 days with a salary of $50.00 a day, paid to him daily, which was admitted by defendant (A. 96, 97, 111). In fact, defendant by his own testimony (A. 56-58, 94-95), and by his own exhibits (Appendix K) has proven the truth of said facts. Therefore, *defendant had not fulfilled his obligations toward plaintiff, as per aforesaid Par. 5*, and the 27 days of defendant's employment after December 1, 1961 should have been construed as part of defendant's obligations under aforesaid Par 5, without the 100% increase in salary.

(11) Defendant never rebutted plaintiff's testimony and evidence that defendant induced plaintiff for defendant to stay there after December 1, 1961, and that defendant stayed there, as per verbal agreement between the parties, for 27 days *after* December 1, 1961, on "*a day to day basis*", and that *the consideration for said employment was the 100% increase in defendant's salary from $50.00 to $100.00 a day, paid to him daily*, which was admitted by defendant (A. 96, 97, 111, 126, 135-136). In fact, defendant by his own testimony (A. 58), and by his own exhibits (Appendix K) has proven aforesaid facts. Thus, proving once again the total lack of consideration for said alleged Exhibit No. 3, and therefore its invalidity, and the invalidity of defendant's alleged Affirmative Defense as well.

(12) Defendant never rebutted plaintiff's testimony that defendant at no time introduced plaintiff to defendant's patients, nor to industrial accounts (A. 136-137), nor that there was not any change in the number of patients during defendant's stay there (A. 125), *thus proving once again that defendant had not fulfilled his obligations toward plaintiff as per aforesaid Paragraph 5 of the Contract of Sale* (Appendix F).

(13) By defendant's own testimony there was no discussion with plaintiff on December 1, 1961 (A. 43-47), therefore, the testimony of defendant's witness, "typist-clerk", which was based exclusively on an alleged overhearing of an alleged discussion between plaintiff and defendant on December 1, 1961 (A. 165-168) was automatically *manufactured*, even according to defendant. The Master by his own findings (see supra), discredited completely the testimony of said manufactured witness of

defendant, wiping out by said action once again any alleged case for defendant.

(14) By said "typist-clerk's" own testimony she did not witness an alleged signing of an alleged Exhibit No. 3 (A. 150), nor did she see an alleged Exhibit No. 3 on December 1, 1961 (A. 150, 153). She read the alleged Exhibit No. 3 for the first time (in 1963) in the office of defendant's attorney (A. 153), and according to her own testimony she was a manufactured witness (A. 151, 152, 157), as described previously in this petition. Ironically, even her own manufactured testimony has proven the falsity and invalidity of defendant's alleged Affirmative Defense, for said witness stated that defendant didn't say anything to plaintiff to be released from the restrictive covenant nor that he wanted to change the agreement he has with plaintiff (A. 156).

(15) According to the evidence (see supra), and to the law (U.S.I.R. Code of 1954 Sec. 453) said Exhibit No. 2 was a complete unnecessary document for defendant, and above all *it did not require plaintiff's signature* whatsoever, hence proving by itself that it was a tool for defendant to lure plaintiff into signing of unnecessary instruments for a purpose.

Petitioner shall now summarize some of the fictitious facts CONJURED UP by said Appellate Court itself for the purpose of rendering a false decision in said appeal:

(1) Page 2 of Opinion:

> "It (Exhibit No. 2) provided that plaintiff was to make all subsequent installment payments to a named depositary to the credit of defendant who was not to make any withdrawals therefrom until January 2, 1963".

See the deliberate misstatement thereof in Appendix I and discussion thereof in this petition.

(2) Page 4 of Opinion:

"But two copies of Exhibit No. 3 were executed by the parties".

See the falsity of that on A. 42, 54, and discussion thereof in this petition. The Master did not find that plaintiff executed an alleged Exhibit No. 3 (Appendix E). By defendant's own testimony, which was completely discredited by the Master, only one copy was allegedly signed (A. 42, 54).

(3) Page 4 of Opinion:

"(both parties executed) a white one and a yellow copy which defendant handed to plaintiff's typist-clerk".

See the falsity of that as supra (No. 2).

(4) Page 4 of Opinion:

"This had been discussed in the previous months as well as the release of defendant from the restrictive covenant".

See the falsity of that on A. 20, 42-47, 102, 107, 108, 192, 193, and discussion thereof in this petition. Note the self fictitiousness and invalidity of said statement which is documented by the fact that the transaction of having bought the Restrictive Covenant from defendant for

$110,000.00 was only 3 months old on December 1, 1961 (A. 96, Appendix II), and, therefore, the alleged discussions of giving back to defendant said Restrictive Covenant for nothing would have taken place, even before plaintiff had bought said Restrictive Covenant from defendant, which is a falsity and an absurdity in itself. Hence, said fact proves by itself that it was CONJURED UP by said Appellate Court itself.

Note, that even the Master did not find that there was ever a discussion about an alleged cancellation of the Restrictive Covenant (see Appendix E).

(5) Page 4 of Opinion:

"She (typist-clerk) had seen Exhibit No. 3 at that time (December 1, 1961) and remembered defendant asked plaintiff to sign and plaintiff responded he would if defendant remained working for plaintiff".

See the falsity of that on A. 150, 152, 153, 156: by this witness own testimony *she DID NOT SEE* said alleged Exhibit No. 3 on December 1, 1961 (A. 150, 153), *nor did she listen to anything* on December 1, 1961 (A. 152). Even according to defendant her testimony was *manufactured*, because there was no discussion on December 1, 1961 whatsoever (A. 43-47). *Note the self contradiction between No. 5 and No. 6*, if there would have been alleged discussions "*in the previous months*", then there wouldn't have been necessary to go on again with the entire story on December 1, 1961. *See also discussion thereof in his petition.*

(6) Page 5 of Opinion:

"She (typist-clerk) recalls that plaintiff signed Exhibit No. 3 in her presence".

See the falsity of that as supra (No. 6). Said "appointment", by her own testimony, DID NOT WITNESS the signing of an alleged Exhibit No. 3 (A. 130, 152). Nor did the Master find that plaintiff ever executed an alleged Exhibit No. 3 (see Appendix E).

The aforesaid lengthy evidence discloses that said Appellate Court, by having CONJURED UP said chain of fictitious facts to REPLACE all true facts which were deliberately excluded by said Appellate Court from its opinion, has proven by itself that its Opinion and Decision in said appeal are manifestly false.

The law invalidates an opinion which is composed of fictitious facts *CONJURED UP BY THE COURT ITSELF*, as it is in the case at bar. Copland, 66 Ohio App. 394; 33 N.E. 2d 697; 32 N.E. 2d 22.

The law invalidates an opinion from which the Court has deliberately excluded literally all true evidence decisive to a fair decision of the matter, as it is in the case at bar. *Armstrong Paint and Varnish Works* v. *Continental Can Co.*, 301 Ill. 102; *Stanton* v. *Chicago City Railway Co.*, 322 Ill. 326; *Swanson et al* v. *Traer*, 354 U.S. 114.

It must be emphasized, that the entire American Judicial literature does not contain a single case resembling the facts of the case at bar, which proves manifestly that said SCANDALOUS JUDICIAL FRAUD under consideration is the FIRST JUDICIAL FRAUD of that kind in the American judicial history, and perhaps the first in the global judicial history. The only and the closest case found and cited here by your petitioner is the case of Copland (see supra). In that case, the court conjured up by itself a chain of fictitious facts of a case which did not exist, but said court did so for the purpose of

narration only, for the purpose to serve as material for an article in a magazine.

In the case at bar, however, which concerns a real case, said Appellate Court after having deliberately excluded from its opinion literally all true and decisive evidence of the matter has CONJURED UP by itself a long chain of fictitious facts upon which it has based its false opinion in said appeal for the purpose of rendering a false decision in said appeal (see supra). A basic principle of law is that anything which is proven false is void, as is, for example, counterfeit money. *The aforesaid evidence discloses that said opinion and decision of said Appellate Court in said appeal are proven false, and, therefore, they cannot be enforced, and must be declared void.* Said Appellate Court, by its manifestly false opinion and false decision in said appeal, has flagrantly deprived your petitioner and the People as a whole not only of due process and equal protection of the laws but also of the most primitive principles of law provided even by a non-civilized nation. Furthermore, the unprecedented and calamitous results which flow from said action of said Appellate Court virtually abolish in toto the entire American Constitution, all civil rights, and all laws designed to protect the life and property of the people, which constitute open tyranny and anarchy, tending to destroy the United States of America.

2. The deliberate omission by said Appellate Court from its opinion of literally all true evidence decisive to a fair decision in said appeal, and the replacement with a long chain of fictitious facts CONJURED UP by said Appellate Court itself rendered therein opinion and decision in said appeal VOID and unenforceable, as is counterfeit money. The results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and concrete tending to destroy the United States of America.

A suppression of any part of the record is in derogation of procedural due process unless the same be based upon executive privileges or national security. *Zenbish v. Rinaldi*, 265 F. Supp. 675, 681 (D. N.J.) (1966). In the case at bar is a deliberate omission by said Appellate Court from its opinion of literally all true evidence decisive to a fair decision in said appeal, and the replacement of the same with a long chain of fictitious facts CONJURED UP by said Appellate Court itself (see supra). It constitutes not only the most scandalous violation of the Fourteenth Amendment but the total abolishment of the entire Constitution of the United States of America, and of all laws, leaving your petitioner and the People as a whole totally without protection of their life and property. *Coolman v. Kansas*, 316 U.S. 255, 257-258, 86 L. 1452, 62 S. Ct. 1092 (1942). A basic principle of law is that anything which is proven false is void, as is, for example, counterfeit money. The evidence in this petition discloses that said opinion and decision of said Appellate Court, in said appeal are proven false, and therefore, they cannot be enforced, and must be declared void. Again said Appellate Court has flagrantly deprived your petitioner and the People as a whole not only of due proc-

ces and equal protection of the laws but also of the most primitive principles of law provided even by a non-civilized nation. Furthermore, the unprecedented and calamitous results which flow from said action of said Appellate Court virtually abolish in toto the entire American Constitution, all civil rights, and all laws designed to protect the life and property of the people, which constitute open tyranny and anarchy, tending to destroy the United States of America.

3. Said Appellate Court has flagrantly deprived your petitioner and the People as a whole of due process and equal protection of the laws by its decision in said appeal, a decision which is contrary to said Appellate Court's own findings, and, therefore, proven by said Appellate Court itself that its decision in said appeal is consciously false, and, therefore, VOID and unenforcible, as is counterfeit money. The results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

The Appellate Court on pages 3 and 9 of its Opinion made the following findings:

(1) "The findings that the consideration for Exhibit No. 3 was not grossly inadequate is supported by the evidence".

(2) "DEFENDANT AGREED to remain with plaintiff for an additional 3 months in consideration of the cancellation of the restrictive covenant (for which plaintiff had paid to defendant just 3 months before $110,000.00, A. 36, Appendix II)".

(3) "The arrangement (of giving to defendant $110,000.00 literally for nothing) was of mutual benefit".

(4) "We find that defendant established his affirmative defense by a preponderance of evidence".

(5) "(We) further find that plaintiff failed to establish fraud by such clear and convincing evidence that the mind is well satisfied that the charge is true".

Aforesaid findings are gravely erroneous and void by themselves for the following reasons:

As (1): The error and invalidity of said finding is simply demonstrated by the fact that said Appellate Court itself was unable to identify even said alleged evidence to which it referred to, because it is non existent in the record of said case. Adding to that, the fact that there is a TOTAL LACK OF CONSIDERATION for an alleged Exhibit No. 3 as described in this petition, it proves clearly and convincingly that said Appellate Court's finding is not only without any foundation whatsoever but it is directly adverse to the true and valid evidence of said case, which evidence was purposely excluded by the Appellate Court from its opinion and replaced by a chain of fictitious facts CONJURED UP by said Appellate Court itself (*see previous Argument*).

As (2): The Appellate Court, however, DID NOT FIND THAT PLAINTIFF AGREED, because plaintiff did not agree to aforesaid alleged insane deal of defendant on his own. Therefore, even according to the finding of said Appellate Court, although meaningless, there is nothing binding on plaintiff in aforesaid alleged "DEFENDANT'S AGREEMENT" on his own, to cancel for nothing the restrictive covenant for which plaintiff had paid $110,000 to defendant 3 months before, for a Contract cannot come into being, without the mutual agreement of all parties involved. (*I.L.P. Volume 12 Contracts, Section 31*).

Hence, by said Appellate Court's own finding, the judgment appealed from is totally false and void, for the dispute in this case is only about said alleged "DEFENDANT'S AGREEMENT" on his own to which plaintiff did not agree by said Appellate Court's own findings (see supra).

Yet, said Appellate Court affirmed a judgment which is void by said Appellate Court's own finding, thus proving that the decision in said appeal is contrary even to said Appellate Court's own findings, and, therefore, said decision is false and fictitious, and void by law, by all means. *Copland*, 66 Ohio App. 304; 33 N.E. 2d 857; 32 N.E. 2d 23.

Ad (3): The error and invalidity of said finding is documented by the fact that by said Appellate Court's own findings there was not an alleged "arrangement" whatsoever (see Ad 2). Moreover, *the alleged giving to defendant $110,000.00 literally for nothing*, for the consideration for the 27 days of defendant's employment beyond December 1, 1961 was the 100% increase in defendant's salary from $50.00 to $100.00 a day, and paid to him daily, which was admitted by defendant (A. 48, 84, 111-112, 126, 135, Appendix K), could not have been, and is not of mutual benefit, which is even contrary to human logic, and therefore, false and void by itself. Furthermore, there is no evidence in the record showing that an alleged defendant's "arrangement" on his own was of benefit to plaintiff, on the contrary, by defendant's own testimony plaintiff *"had a convulsion almost"* upon the discovery of the scheme (A. 87).

Ad (4): The fictitiousness and invalidity of said finding is documented by the self contradiction to that finding of the Appellate Court itself, for the *Appellate Court*

did not find that plaintiff agreed, because plaintiff did not agree to an alleged "DEFENDANT'S AGREEMENT" on his own to cancel the Restrictive Covenant literally for nothing (see Ad 2). Thus, by the Appellate Court's own finding (under No. 2) *defendant did not establish his alleged Affirmative Defense*. In addition to that, the evidence described in this petition proves overwhelmingly and multiply the total invalidity of said Appellate Court's finding under No. 4. In fact, the writing of an alleged Exhibit No. 3 being false, contradictory, and contrary to human logic in itself, including the total lack of consideration for it, and, therefore, void, establish automatically the invalidity of defendant's alleged Affirmative Defense, which was based exclusively on said alleged Exhibit No. 3.

Ad (5): In the light of the evidence contained in the foregoing petition it is crystal clear that said Appellate Court made said totally unfounded finding, which is just a cynic slogan, for the purpose of misleading the reader of said opinion; for the purpose of covering up its chain of fictitious facts CONJURED UP by said Appellate Court itself upon which it has based its opinion in said appeal; for the purpose of covering up the fact that defendant by his own testimony and action has proven by himself the total falsity and invalidity of his own alleged Affirmative Defense (see previous Argument). Furthermore, the issue of "*fraud*" alleged by said Appellate Court, and not by the parties involved is beyond the scope of said appeal, and plaintiff was not required to establish any "*fraud*", nor did plaintiff fail to prove anything (see previous Argument). The only disputed issue in this appeal *is defendant's alleged Affirmative Defense to plaintiff's Complaint which defendant failed to establish, even according to the findings of said Appellate Court* (see Ad (4)).

Note the total lack of justification for said findings, and the self contradiction of said findings to each other.

The aforesaid evidence proves convincingly and multiply once again that said decision in said appeal, of said Appellate Court, is patently FALSE and VOID, not only because it is based solely and exclusively on fictitious facts CONJURED UP by said Appellate Court itself after having deliberately excluded from its opinion literally all true facts decisive to a fair decision, but also because its decision is contrary to said Appellate Court's own findings (see supra). A basic principle of law is that anything which is proven false is void, as is, for example, counterfeit money. The evidence in this petition discloses that said opinion and decision of said Appellate Court, in said appeal are proven false, and, therefore, they cannot be enforced, and must be declared void.

Again said Appellate Court by its false opinion and false decision in said appeal has flagrantly deprived your petitioner and the People as a whole not only of due process and equal protection of the laws but also of the most primitive principles of law provided even by a non-civilized nation. Furthermore, the unprecedented and calamitous results which flow from said action of said Appellate Court virtually abolish in toto the entire American Constitution, all civil rights, and all laws designed to protect the life and property of the people, which constitute open tyranny and anarchy tending to destroy the United States of America.

4. Your petitioner and the People as a whole were flagrantly deprived of due process and equal protection of the laws by said Appellate Court's decision in said appeal which affirmed a Judgment which is FALSE and VOID, even by said Appellate Court's own opinion, although false. Said Appellate Court by its action has proven by itself once again that its decision in said appeal is manifestly false, and, therefore, VOID and unenforceable, as is counterfeit money. The results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

In this case the *TRIPLE REVERSAL* of the Judgment appealed from is *MANDATORY* by law, even according to the opinion of said Appellate Court, in said appeal, although false. Therefore, the decision of said Appellate Court, in said appeal, is once again *TRIPLY FALSE* and, therefore, *TRIPLY VOID* for the following reasons:

1. Said Appellate Cour by its own findings *on page 8* of its opinion (see previous Argument) practically invalidated by itself the Judgment appealed from, thus reversing its own decision in this appeal which affirmed said void Judgment, for said Appellate Court did not find that plaintiff agreed, because plaintiff did not agree to an alleged *"Defendant's Agreement"* on his own, to cancel literally for nothing the Restrictive Covenant for which plaintiff had paid to defendant just 3 months before *$110,000.00* (A. 96, Appendix H). Therefore, even by the findings of said Appellate Court there is *NOTHING BINDING ON PLAINTIFF* in aforesaid alleged *"Defendant's Agreement"* on his own, and the decision of said Appellate Court, in this appeal, is totally FALSE, and, therefore, automatically VOID by law (see supra).

2. It has been proven in this petition by extensive documentary evidence that the opinion of said Appellate Court, in this appeal, is composed of and supported solely and exclusively by improper and fictitious facts CONJURED UP by said Appellate Court itself, and the law invalidates such an opinion (see supra). It has been proven by extensive documentary evidence that said Appellate Court deliberately excluded from its opinion literally all true evidence decisive to a fair decision in said appeal, and the law invalidates such an opinion as well (see supra). Therefore, the decision of said Appellate Court, in said appeal, which is based on said opinion is automatically once again FALSE and hence DOUBLY VOID by law.

3. The opinion of said Appellate Court in said appeal, even as it is now, although void by law as described above, it still REVERSES the Judgment appealed from, by itself, for the following reasons:

(a) Said Appellate Court in its opinion branded the Master as being untruthful in his findings, *branded the Master's findings as false* on numerous instances, as described previously in this petition, and your petitioner shall cite now one of said instances in support of aforesaid statement:

Page 4 of said opinion states:

"Exhibit No. 2 (ADDENDUM) was executed four or five days or a week before Exhibit No. 3 (before December 1, 1961)" (ONE copy).

The Master found (Appendix E, pp. 30a, 28a)

Exhibit No. 2 (ADDENDUM) was executed on December 1, 1961 (TWO copies).

Keep in mind, that aforesaid facts are of essential importance to said appeal. In the light of said facts either the findings of said Appellate Court, or of said Master are definitely false.

(a) Assuming said Appellate Court's findings would have been true, then *the Master's findings are false.*

(b) The Judgment appealed from is based exclusively on said Master's findings, which findings are manifestly false according to said Appellate Court (see supra). Hence, said Judgment is definitely false, according to said Appellate Court.

(c) The decision of said Appellate Court affirmed said false Judgment, therefore, said decision is automatically false by said Appellate Court's own findings.

(d) If, however, *said Appellate Court's findings are false,* then its decision in said appeal is automatically false, and automatically VOID. Consequently, said Judgment appealed from is automatically false, and automatically VOID, by all means.

A basic principle of law is that anything which is proven false is VOID, as is, for example, counterfeit money. The evidence in this petition discloses that said opinion and decision of said Appellate Court, in said appeal, are proven false, and, therefore, they cannot be enforced, and must be declared VOID, as is counterfeit money.

Again said Appellate Court by its decision in said appeal, being proven false by said Appellate Court itself, has flagrantly deprived your petitioner and the People as a whole not only of due process and equal protection of the laws but also of the most primitive principles of law provided even by a semicivilized nation. Furthermore, the unprecedented and clamitous results which flow from said action of said Appellate Court virtually abolish in toto the entire American Constitution, all civil rights, and all laws designed to protect the life and property of the people, which consitute open tyranny and anarchy tending to destroy the United States of America.

5. Your petitioner and the People as a whole were flagrantly deprived of due process and equal protection of the laws by said Appellate Court's decision in said appeal which affirmed a Judgment which was based solely and exclusively on the Master's recommendation, a recommendation which is totally false, even by said Master's and said Appellate Court's own findings, hence said decision is automatically VOID and unenforceable, as is counterfeit money. The results which flow from said action of said Appellate Court virtually destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

It has been shown that the Judgment appealed from is based solely and exclusively on the Master's recommendation. It has been also proven in this petition by documentary evidence that the Master by his own findings had established the total falsity and fiction of his own recommendation, *for said Master did not find that plaintiff ever considered, discussed, gave a consent to defendant to prepare an alleged Exhibit No. 3, nor that an alleged Exhibit No. 3 was ever delivered to plaintiff, nor executed by plaintiff* (see supra). What the Master did find was, that defendant delivered to plaintiff on December 1, 1961, two identical copies of Exhibit No. 2 (ADDENDUM) supposed to be for the Internal Revenue, and that plaintiff executed the same on December 1, 1961, and nothing else, and nor at any other date (see Appendix E, pp. 20a, 22a). Therefore, the Master, by his own findings not only completely discredited defendant's alleged version of his alleged Affirmative Defense to plaintiff's Complaint (see supra), not only completely discredited the testimony of defendant's MANUFACTURED and only witness, "typist clerk", who was supposed to

corroborate defendant's alleged version of his alleged Affirmative Defense (see supra), but the Master, by his own findings branded both, the defendant, and his MANUFACTURED witness, "typist clerk", as PREVARICATORS (see supra) thus wiping virtually out by said action any alleged case for defendant. Yet, the Chancellor affirmed said false recommendation of the Master, by issuing a Judgment which was based exclusively on said false recommendation of the Master. Said Appellate Court affirmed said false Judgment by CONJURING UP by itself a chain of fictitious facts upon which it has based its opinion and false decision in said appeal (see supra). In fact, by said Appellate Court's own opinion said Master's findings were manifestly false (see supra). The Supreme Court of Illinois has refused to grant petitioner leave to appeal from said false Judgment, from said false opinion and false decision of said Appellate Court. A basic principle of law is that anything which is proven false is VOID, as is counterfeit money. The evidence in this petition discloses that said opinion and decision in said appeal have been proven false by said Appellate Court itself, hence, they must be declared void, as is counterfeit money. Therefore, the Illinois State Judiciary by its action has flagrantly deprived your petitioner and the People as a whole not only of due process and equal protection of the laws but also of the most primitive principles of law provided even by a nonecivilized nation. Furthermore, the unprecedented and calamitous results which flow from said action of the Illinois State Judiciary virtually abolish in toto the entire American Constitution, all civil rights, and all laws designed to protect the life and property of the people, which constitute open tyranny and anarchy tending to destroy the United States of America.

6. The Supreme Court of Illinois has flagrantly deprived your petitioner and the People as a whole of due process and equal protection of the laws by its refusal to grant petitioner leave to appeal from said opinion and decision of said Appellate Court, an opinion and decision which have been proven by said Appellate Court itself as being manifestly false, and, therefore, VOID and unenforceable, as is counterfeit money. The results which flow from said action of the Supreme Court of Illinois destroy the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

A basic principle of law is that anything which is proven false is VOID, as is, for example, counterfeit money.

The evidence in this case discloses that said opinion and decision in said appeal have been proven by said Appellate Court itself as being false, hence VOID, and unenforceable, as is counterfeit money. Therefore, in this case, the Supreme Court of Illinois was virtually duty bound by the Constitution of the United States of America, by the Constitution of the State of Illinois, and by the laws (see supra) to expunge aforesaid false opinion and false decision of said Appellate Court. Said Supreme Court, however, has flatly refused to grant leave to appeal despite the fact that there was not even an answer of respondent to aforesaid sworn petition for leave to appeal. Hence, the Supreme Court of Illinois by its action has flagrantly deprived your petitioner and the People as a whole not only of due process and equal protection of the laws but also of the most primitive principles of law provided even by a noncivilized nation. Furthermore, the unprecedented and calamitous results which flow from said action virtually abolish in toto the United States Constitution, all civil rights, and all laws designed to protect the life and property of the People,

which constitute open tyranny and anarchy tending to destroy the United States of America.

7. A due process violation has been accomplished by the Illinois State Judiciary.

A due process violation is none the less clear when that result is accomplished by the state judiciary. The federal guaranty of due process and equal protection of the laws extends to state action through its judicial as well as through its legislative, executive or administrative branch of government. While it is for the state courts to determine the adjective as well as the substantive law of the State, they must, in so doing *accord the parties due process and equal protection of the laws. Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680 (1930).

In the case at bar, the judgment appealed from has been proven as being false, for said judgment is contrary to said Master's and said Appellate Court's own findings (see supra). Moreover, said Appellate Court for the purpose of rendering a false decision in said appeal, has CONJURED UP by itself a long chain of fictitious facts upon which it has based its opinion from which it has also deliberately excluded all true evidence decisive to a fair decision in said appeal. The Illinois Supreme Court has refused to grant leave to appeal from said proven false judgment of said Circuit Court, from said proven false opinion and said proven false decision of said Appellate Court, in said appeal. Hence, here is not only a grave violation but a total destruction by all branches of the Illinois State Judiciary of the United States Constitution, of all civil rights, and of all laws designed to protect the life and property of the People, which constitute open tyranny and anarchy tending to destroy the United States of America.

8. Your petitioner, who is not an attorney, has been flagrantly deprived of his Constitutional rights by being forced to prepare this petition for a writ of certiorari by himself, without legal counsel, as he did prepare all briefs in said appeal, because petitioner has been unable to procure counsel who would be willing to represent him in this matter.

The Fifth and Fourteenth Amendment of the Constitution of the United States of America guarantee *the right to be tried by due process and equal protection of the laws.*

It is indisputable, that said Constitutional guarantees are virtually of no value and meaningless when a citizen is deprived the right or opportunity to procure legal counsel, as it is in the case at bar. The evidence in this case discloses that when your petitioner became conscious that his own attorney at the time had acted falsely and fraudulently against petitioner himself, while representing him, which is manifestly documented by petitioner's own Objections to the Master's Report, which are falsely and fraudulently against petitioner himself (A. 236-249), thereafter, although petitioner made repeated efforts, he has been unable to procure counsel who would be willing to assist him and represent him in said appeal. For that reason your petitioner was compelled to prepare by himself all briefs in said appeal, without legal counsel, as he did prepare the foregoing petition for a writ of certiorari, hence your petitioner has been flagrantly deprived of his Constitutional rights.

In fact, your petitioner on October 24, 1970, petitioned this Honorable Court to appoint counsel for the preparation of said petition for a writ of certiorari, at petitioner's expense, in view of aforesaid circumstances. The Clerk of this Court in his letter dated November 5, 1970, stated:

"This Court may appoint counsel only in the event that it grants petition for a writ of certiorari" (Appendix L).

Consequently, said forcible representation of your petitioner in this petition for a writ of certiorari Pro Se, was caused by aforesaid inability to procure counsel, and constitutes another flagrant denial to your petitioner of due process and equal protection of the laws.

CONCLUSION.

This case is of novel impression in view of the issues raised herein, and involves vital federal questions, for the results which flow from this case decide about the survival of our society and of our Nation.

The evidence in this case manifestly discloses that said Appellate Court, for the purpose of rendering a false decision in aforesaid appeal, CONJURED UP by itself, a long chain of fictitious facts upon which it has based its opinion in said appeal after having deliberately excluded from said opinion literally all true evidence decisive to a fair decision in said appeal.

Moreover, said Appellate Court by having CONJURED UP by itself a long chain of fictitious facts, and by its own findings as outlined in this petition (see Reason for granting the writ) has proven, by itself, that its opinion and decision in said appeal are manifestly false.

It has been said repeatedly in this petition that a basic principle of law is that anything which is proven false is VOID, as is, for example, counterfeit money. Therefore, the opinion and decision of said Appellate Court, in said appeal, having been proven by said Appellate Court itself as being false (see supra), cannot be enforced, *AND*

MUST BE DECLARED VOID, as is counterfeit money. Hence, said opinion not only conflicts squarely with the essential requirement of due process and equal protection of the laws, but said opinion consisting solely and exclusively of fictitious facts CONJURED UP by said Appellate Court itself, for the purpose of rendering a false decision in said appeal, symbolizes a total destruction of the United States Constitution, of all civil rights, and of all laws designed to protect the life and property of the People.

It is the laws and the Courts of the Land which protect the life and property of its citizens. If, however, the Courts act improperly and *CONJURE UP*, by themselves, a chain of fictitious facts for the purpose of rendering a false decision in an appeal, as said Appellate Court did in the case at bar, even the most liberal Constitution, the most protective civil rights, and the best laws are literally of no value whatsoever, which constitute open tyranny and anarchy tending to destroy the United States of America.

Therefore, this is not a case which symbolizes a struggle for justice by only one individual citizen, but by the People of the United States of America as a whole who cry out not to be destroyed by tyranny and anarchy.

The reasons for your petitioner of being compelled to prepare the foregoing petition by himself, without legal counsel, and to represent himself before this Court, which constitute a unique method employed in this case for the purpose of enforcing aforesaid "*judicial fraud*" within the Illinois State Judiciary are described in this petition.

It is, therefore, a must and the duty of this High Court to take jurisdiction for the benefit of the People and of the Nation of the United States of America.

For the reasons stated, this petition for a writ of certiorari should be granted.

Respectfully submitted,

STANLEY TURZYNSKI
6165 Archer Avenue
Chicago, Illinois 60638
Petitioner, Pro Se

State of Illinois
County of Cook—ss.

STANLEY TURZYNSKI, being first duly sworn on oath deposes and says that he is the petitioner in the above entitled petition for a writ of certiorari; that he has read the foregoing petition by him subscribed, knows the contents thereof and that the same is fully true.

/s/ Stanley Turzynski

Subscribed and sworn to before me this 23rd day of December, 1970.

/s/ Patrick A. Kessler
Notary Public

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APPENDIX A

Constitutions

Constitution of the United States:

Amendment V

• • • nor shall any person be deprived of life, liberty, or property, without due process of law.

Amendment XIV

Section 1. • • • nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Constitution of the State of Illinois:

Article II — Bill of Rights

Section 2. No person shall be deprived of life, liberty or property, without due process of law.

Section 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation: he ought to obtain, by law, right and justice freely, and without being obligated to purchase it, completely and without denial, promptly, and without delay.

APPENDIX B

Federal Statutes

Civil Rights Act:

42 U.S.C.A., Section 1983. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereto to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. R.S. & 1979.

United States Internal Revenue Code:

Section 453 of U.S.I.R. Code of 1954 prohibits the use of the *"Instalment Method"* if more than 30% of the transacted amount of money is paid in the year of sale.

Miscellaneous

Illinois Law and Practice:

I.L.P., Volume 12, Contracts, Section 31 provides that a contract can come into being only by mutual agreement of all parties involved.

APPENDIX C

In the Appellate Court of Illinois
First Judicial District

STANLEY TURZYNSKI,

Plaintiff-Appellant,

vs.

SAMUEL A. LIBERT,

Defendant-Appellee.

Appeal from the Circuit Court of Cook County, Illinois, County Department, Chancery Division.
Honorable DONALD J. O'BRIEN, *Judge Presiding.*

OPINION OF THE APPELLATE COURT

This is the full and true text of the Opinion in the above captioned appeal rendered by the Appellate Court of Illinois, First Judicial District on January 21, 1970.

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No. 52523

STANLEY TURZYNSKI,
Plaintiff-Appellant,
vs.
SAMUEL A. LIBERT,
Defendant-Appellee.

Appeal from the Circuit Court of Cook County.

Honorable Donald J. O'Brien, Judge Presiding.

Mr. Presiding Justice Stamos Delivered The Opinion Of The Court.

Plaintiff, Dr. Stanley Turzynski, brought suit to enjoin and restrain defendant, Dr. Samuel A. Libert, from

resuming the practice of medicine in violation of a restrictive covenant. Plaintiff appeals from the judgment of the Circuit Court of Cook County which dismissed plaintiff's complaint for want of equity and taxed costs including Master's fees against plaintiff.

On May 4, 1961 the parties entered into a written agreement whereby defendant agreed to sell to plaintiff certain real estate, personal property and medical equipment, accounts receivable and defendant's medical practice, located at 6165 Archer Avenue, Chicago, Illinois and known as the Garfield Medical Center, for the sum of $185,000.00.

The agreement contained a provision, identified as "par. 6", that defendant would not practice his profession as a general practitioner or open a new office for the general practice of medicine directly or indirectly after the closing date of the transaction within a radius of 15 miles from 6165 Archer Avenue, Chicago, excepting therefrom the downtown area of the City of Chicago, River Forest and Oak Park, Illinois.

The sale was consummated on August 19, 1961 and plaintiff entered upon the operation of the medical center. Pursuant to another provision of the agreement defendant was to be retained as an employee of plaintiff until December 1, 1961 for the purpose of effecting a "smooth transfer" of the medical practice.

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Approximately two years after the consummation of the foregoing sale, plaintiff was advised that defendant was preparing to open an office and engage in the general practice of his profession next door to the premises of plaintiff, at 6167 Archer Avenue, Chicago, Illinois. Plain-

tiff thereupon initiated the instant litigation predicated upon the restrictive covenant.

Defendant filed as part of his affirmative defense to plaintiff's complaint for an injunction, a certain document, Exhibit No. 3, dated December 1, 1961 and allegedly executed by the parties. The document commenced with the caption, "Amendment to the Memorandum of Agreement of May 4, 1961 between Dr. Samuel A. Libert and Dr. Stanley Turzynski," and recited the following:

(1) "Whereas paragraph numbered 6 on page three (3) is ambiguous and its validity questioned because line five states a prohibitive 15 mile radius but does not give a time limitation and

(2) Whereas Dr. Turzynski desires to capitalize financially on the good name and offices of Dr. S. A. Libert

Dr. S. Turzynski and Dr. S. A. Libert do mutually agree to cancel and set aside the conditions of section 6 of said agreement provided Dr. S. A. Libert agrees to remain employed by Dr. S. Turzynski for an additional three (3) months beyond December 1, 1961, as per paragraph or section numbered 5.

Dated and signed Dec. 1, 1961,

(S) Samuel A. Libert, M.D.

.....

(T) Samuel A. Libert, M.D.

(S) Stanley Turzynski, M.D.

.....

(T) Stanley Turzynski, M.D.

Plaintiff's amended reply alleged that on or about December 1, 1961, at the Medical Center, the parties did execute a supplemental agreement but that it was Exhibit No. 2. It provided that plaintiff was to make all

subsequent installment payments to a named depository to the credit of defendant who was not to make any withdrawals therefrom until January 2, 1963.

Plaintiff also alleged in his reply that if his signature

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appeared on Exhibit No. 3, it was obtained thereon by fraud or misrepresentation by defendant; that plaintiff executed Exhibit No. 2 at defendant's request and that contemporaneously, by reason of defendant's fraud and misrepresentations, plaintiff unknowingly executed Exhibit No. 3 in the belief that it was a copy of Exhibit No. 2.

In this court plaintiff, pro se, filed a reply brief and presented his oral argument. Plaintiff's briefs raise the following contentions:

(1) There was never an agreement to enter into an amendment to cancel the restrictive covenant.

(a) There can be no agreement without a meeting of the minds of the parties to the contract.

(b) There must be an offer and an acceptance before a contract can come into being.

(2) The reviewing court has the duty to make its own independent investigation of the facts giving due consideration to the findings of the Master to determine whether the decree rendered by the Chancellor was supported by the evidence and in accordance with the law.

(3) The party who asserts the affirmative defense has the burden of proving its existence by a preponderance of the evidence.

(4) Where this is a lack of or gross inadequacy of consideration relief is afforded in equity to set aside such contract.

Plaintiff testified as follows:

He had a conversation with defendant about changing the payment provisions of the agreement and this occurred sometime in December, 1961. This conversation took place at the medical center and defendant advised plaintiff that this modification would allow defendant certain income tax advantages and handed plaintiff two documents to execute. Plaintiff read the top document and its copy and observed that it pertained to what he and defendant had just discussed. He retained both documents and laid them on a desk in the office without signing them and returned to his patients. (He also testified, however, that after he read the documents, defendant

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took them back). Plaintiff did not see them again until three hours later when defendant inquired of plaintiff if he had signed and when plaintiff replied in the negative, defendant urged him to do so. Plaintiff then alone entered the office, closed the door, saw the documents on the table, one directly over the other, and he proceeded to sign them. He did not look at the bottom document before he signed it. Plaintiff testified that when he affixed his signature to the first or the top document, he also wrote in the word "Chicago" above his signature. (This entry appears on Exhibit No. 2). He did not make this entry on the bottom or second document when he signed it. After making the entry of the word "Chicago" on the first or top document and signing each document, he left them on the table and departed from the office.

Defendant testified that he recalled the day Exhibit No. 3 was executed because it was December 1, 1961 and was the termination date of his employment with plaintiff and unless the parties entered into this particular agreement, defendant's obligation in this regard pursuant

to the original agreement were fulfilled. Plaintiff wanted defendant to remain for an additional three months; this had been discussed in the previous months as well as the release of defendant from the restrictive covenant.

Defendant related that Exhibit No. 2 was executed four to five days or a week before Exhibit No. 3 and both were executed at the medical center. Only one copy of Exhibit No. 2 was executed, but two copies of Exhibit No. 3 were executed by the parties, a white one and a yellow copy which defendant handed to plaintiff's typist-clerk in the presence of plaintiff, and she immediately filed it.

Plaintiff's former typist-clerk was called as a witness on behalf of defendant and she related that she was present at the medical center office on December 1, 1961. She had seen Exhibit No. 3 at that time and remembered defendant asked plaintiff to sign and plaintiff responded he would if defendant remained working for

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plaintiff. She recalls that plaintiff signed Exhibit No. 3 in her presence and there was a yellow copy. Defendant handed this yellow copy to her and told her it was a very important document and she should file it. This was all in the presence of plaintiff. She had no recollection of ever having seen Exhibit No. 2 on December 1, 1961.

The Master found that defendant remained employed by plaintiff for an additional three months beyond December 1, 1961, and that Exhibit No. 3 was not procured as the result of any trick or fraud on the part of the defendant nor was the consideration grossly inadequate and recommended that the complaint be dismissed for want of equity. The trial judge confirmed and approved the Master's Report and dismissed the suit.

OPINION

Plaintiff initially contends that his signature on Exhibit No. 3 was secured by fraud and deceit perpetrated by defendant and thus was of no legal effect because it lacked the essential legal requisites of an agreement.

In his brief plaintiff argues, "During the three hour interval between the reading and signing of said two instruments, the defendant substituted the copy of the addendum (Exhibit No. 2) with a copy of the fictitious amendment (Exhibit No. 3), having the instruments so arranged, that the substituted copy was covered entirely with the original of the addendum (Exhibit No. 2), except for a space to sign, to pose as the copy of the addendum (Exhibit No. 2)."

In *Papke* v. *The G. H. Hammond Co.*, 192 Ill. 631, 61 N.E. 910 (1901), the court at page 635 said:

> "Fraud in the execution of the instrument is practiced, where the instrument is misread to the party signing it, *or where there is a surreptitious substitution of one paper for another*, or where, by some other trick or device, a party is made to sign an instrument which he did not intend to execute." (Emphasis supplied).

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In *Bundensen* v. *Lewis*, 368 Ill. 623, 15 N.E. 2d 520 (1938), the court stated at page 632:

> "Rules governing transactions of this character have frequently been announced by this court. In *Weininger* v. *Metropolitan Fire Ins. Co.*, 350 Ill. 584, it was said: 'The presumption very properly is that all men are honest. Where fraud is charged it must affirmatively be proved by clear and convincing testimony. It cannot be established upon mere suspicion.' The burden is upon the one alleging fraud to

> prove it by 'such clear and convincing evidence that the mind is well satisfied that the charge is true.' This is the rule announced in *Jaworski* v. *Sujewicz*, 334 Ill. 19; also *Schiavone* v. *Ashton*, 332 id. 484; *Mosbarger* v. *Brown*, 313 id. 238; *Carter* v. *Carter*, 283 id. 324."

In the instant matter a cursory or superficial examination of Exhibits No. 2 and 3 would reveal they are not an original and copy. Plaintiff wrote in the word "Chicago" above his name on the first or top document, which he testified was Exhibit No. 2 but he did not make this entry upon the document he testified he assumed was a copy of Exhibit No. 2. It is singularly significant that although both Exhibits No. 2 and 3 were typewritten, Exhibit No. 2 was on plain paper, whereas Exhibit No. 3 was on the letterhead of an "S. Lee, General Agent." Exhibit No. 3 had two typewritten lines for signatures with the parties' names typewritten under the lines. Exhibit No. 2, however, did not have any lines for signatures nor any typewritten names.

Plaintiff's theory suggests that defendant would anticipate that plaintiff would not immediately execute the documents, but that there would be another fortuitous circumstance of a three hour passage of time in which defendant would have ample opportunity to substitute a copy of Exhibit No. 2 for Exhibit No. 3 and further anticipate that plaintiff alone in a room would not glance at the substituted document and discover defendant's alleged fraudulent scheme. We cannot find that there was a "surreptitious substitution" or that there was a "trick or device" by which plaintiff was "made to sign an instrument which he did not intend to execute." *Papke*, *supra*.

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Plaintiff also contends that there was such a gross inadequacy or lack of consideration that Exhibit No. 3 should be set aside. Plaintiff relies upon the following authorities in support of this contention. *Burroughs* v. *Mefford*, 387 Ill. 461 (1944); *Logue* v. *Almen*, 379 Ill. 208 (1941); *Page* v. *Keeves*, 362 Ill. 64 (1935); *Spencer* v. *Wilsey*, 330 Ill. App. 439 (1947) and *Illinois Kaolin Co.* v. *Goodman*, 252 Ill. 99 (1911).

In *Burroughs*, *supra*, the aggrieved party received no consideration for the execution of a deed procured by the fraud of her guardians on the day she attained her majority. In *Logue*, *supra*, there was ample evidence that aggrieved parties were ignorant of the effect of executing a mineral deed and lacked knowledge of its contents and were illiterate and were dealing with a person who was a director in a bank having vast real estate holdings and possessing extensive business experience. The court in *Logue* commented that the transaction lacked fair and open dealing which equity demands where the parties do not stand upon an equal basis. In *Page*, *supra*, an eighty one year old, sick and infirm woman with mental illness was induced to trade her residence property for business property whose existing mortgage exceeded the sales price. The court commented that the consideration received was pitifully inadequate, in fact, it had no value. In *Spencer*, *supra*, the parties were joint venturers and the evidence disclosed a breach of a fiduciary relationship and clearly revealed that aggrieved party was induced by fraud and misrepresentation to transfer his interest in an invention. In *Kaolin*, *supra*, the evidence clearly revealed that aggrieved party was induced to execute leases by fraud and misrepresentation. That pre-

vious to signing, the aggrieved party could not read the small type, so when it was read to her, certain material interpolations were falsely read to her. The court further found that the lease lacked mutuality.

Plaintiffs authorities correctly recite abstract propositions

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of law, see *Burroughs, supra*, page 467:

> "Where the inadequacy of consideration is so great as to shock the conscience of a court of equity, and stamp the entire transaction with fraud from its inception, relief will be afforded in equity. (*Fecht* v. *Freeman*, 251 Ill. 84; *Schwarz* v. *Reznick*, 257 Ill. 479; *Witherwax* v. *Riddle*, 121 Ill. 140)."

In *Fecht, supra*, the aggrieved party, an insane person, exchanged a farm worth $12,500.00 for $1,250.00 cash, worthless mining shares and real estate mortgaged in excess of its value. In *Schwarz, supra*, the court found conclusive evidence of fraud. The evidence revealed that the aggrieved party was fraudulently induced to purchase by trade a $450.00 piece of real estate for a farm he had previously purchased for $4,500.00. In *Witherwax, supra*, the aggrieved party alleged and proved conclusively that he was fraudulently induced to pay the sum of $3,000.00 for alleged farm property that was worthless. It was proved that the seller fraudulently presented two persons to the aggrieved party who misrepresented that they were knowledgable regarding the characteristics and value of the farm.

As we have pointed out, the foregoing cited authorities are readily distinguishable from the case at bar. Paragraph 5 of the original agreement referred to in Exhibit No. 3, provided that defendant was to effect a "smooth

transfer" of the medical practice to plaintiff and also that defendant was not to publicise the sale but would remain at a salary of $300.00 a week for the purpose of effecting the transfer and to render medical services and perform administrative functions he ordinarily rendered while he was owner. We cannot say that the consideration in the case before us was grossly inadequate as to shock the conscience and require equity to intervene. The finding that the consideration for Exhibit No. 3 was not grossly inadequate is supported by the evidence. Defendant agreed to remain with plaintiff for an additional 3 months in consideration of the cancellation of the restrictive covenant. This arrangement was of

Page 9 of Opinion:

mutual benefit.

We find that defendant established his affirmative defense by a preponderance of the evidence and further find that plaintiff failed to establish fraud "by such clear and convincing evidence that the mind is well satisfied that the charge is true." *Bundensen, supra.*

We hold that the decree rendered by the court was a proper one under the law and the evidence and affirm the judgment. *Gans* v. *Marlowe Pen Co.*, 112 Ill. App. 2d 52, 250 N.E. 2d 811 (1969).

Judgment Affirmed.

DUCKER and LEIGHTON, JJ., concur.

APPENDIX D

STATE OF ILLINOIS
OFFICE OF
CLERK OF THE SUPREME COURT
SPRINGFIELD
62706

JUSTIN TAFT
CLERK

October 5, 1970

TELEPHONE
AREA CODE 217
525-3000

Mr. Stanley Turzynski
6165 Archer Ave.
Chicago, Ill. 60638

No. 43252 - Stanley Turzynski, petitioner, vs. Samuel A. Libert, respondent. Appellate Court, First District.

You are hereby notified that the Supreme Court today denied the petition for leave to appeal in the above entitled cause.

Very truly yours,

Clerk of the Supreme Court

APPENDIX B

1024-1038 Master's Report filed July 5, 1966. Said Master's Report, omitting the caption, signatures, notice and other purely formal parts, is as follows:

C1026 I, Henry E. Perry, Master in Chancery of the Circuit Court of Cook County, Illinois, to whom the above entitled cause was referred by order entered herein, respectfully report unto the Court as follows:

Pursuant to said order of reference I set said cause for hearing, and hearings were held before me on:

May 23, 1963	October 21, 1964
October 10, 1963	November 12, 1964
April 23, 1964	November 13, 1964
April 30, 1964	December 2, 1964
June 3, 1964	December 9, 1964
July 8, 1964	

There attended before me at divers times during said period the following attorneys for the Plaintiff:

Messrs. Wayne & Levine. By: William Levine and Edward Levine.

Messrs. David E. Bradshaw and Raymond I. Suekoff.

For the Defendant:

Messrs. Marovitz, Powell & Pizer. By: Harold Marovitz.

The following witnesses testified before me:

Samuel A. Libert.
Stanley Turzynski.
Irene Barry.
C1207 George V. Jerutis
Delores Smuskiewicz
Dolores Patricia Shab
Margaret Gana
Walter F. Brenart
Hans G. Sussman

Transcripts of the hearing comprising pages 1 to to 594 and the Exhibits introduced by the various parties are returned to the Court herewith.

The Pleadings.

By his complaint, the plaintiff Stanley Turzynski alleges that on May 4, 1961, plaintiff and defendant, Samuel A. Libert, entered into a written agreement by which defendant agreed to sell and plaintiff agreed to buy a building commonly known as 6165 Archer Avenue and a vacant lot at 6169 Archer Avenue used for parking purposes, and commonly known as Garfield Ridge Medical Center, for the sum of $185,000, which plaintiff has paid. That said agreement contained paragraph 6, as follows:

> "6. As a further consideration of the sale of said medical practice, the Seller agrees not to practice his profession as a general practitioner or open a new office for the general practice of medicine directly or indirectly, after said closing date within a radius of fifteen (15) miles from 6165 Archer Avenue, it being specifically understood that the down-town area of the City of Chicago, River Forest and Oak Park, Illinois, are restricted from this restrictive covenant."

The defendant has announced that he will return to medical and surgical practice on April 24, 1963, temporarily, at 6161 Archer Avenue and that about September 1, 1963, he would permanently establish his office at 6157 Archer Avenue. Plaintiff seeks an injunction.

By his answer defendant Samuel A. Libert alleges

that on December 1, 1961, the plaintiff and defendant entered into supplemental agreement as follows:

In keeping with the intention of this installment contract (which is the basic agreement between the buyer and seller) there is a clarification of the installment details as set forth on page

C1028 2, 1st paragraph and commencing on line 13.

This section shall be understood henceforth and amended to read: The balance of approximately Sixty-Eight Thousand Dollars ($68,000.00) is to be deposited no later than midnight of the 2nd day of each month (subject to the terms and agreements of the installment contract) in monthly installments of $2,500.00 commencing on January 2, 1962 and each month thereafter until purchase price is paid in full. The depository mutually named shall be the National Security Savings 6859 W. Archer Ave. Chicago Illinois. Said funds shall be thus held until total amount is paid and only after January 2, 1963 shall these funds, at the discretion of the seller, and only by the seller in total or any fraction thereof be withdrawn.

/s/ Stanley Turzynski, M. D.
/s/ Samuel A. Libert"

On December 1, 1961, the parties entered into a further supplemental agreement as follows:

"Amendment to the Memorandum of Agreement of May 4th, 1961 between Dr. Samuel A. Libert and Dr. Stanley Turzynski.

(1) Whereas paragraph number 6, on page three (3) is ambiguous and its validity questioned because line five states a prohibitive 15 mile radius but does not give a time limitation and

(2) Whereas Dr. Turzynski desires to capitalize financially on the good name and offices of Dr. S. A. Libert.

Dr. S. Turzynski and Dr. S. A. Libert do mutually agree to cancel and set aside the conditions of section 6, of said agreement provided Dr. S. A. Libert agrees to remain employed by Dr. S. Turzynski for an additional Three (3) months beyond December 1, 1961 as per paragraph or section numbered 5.
Dated and signed Dec. 1, 1961.

/s/ Samuel A. Libert, M. D.
/s/ Stanley Turzynski, M. D.

Defendant denies that he should be enjoined.

By his reply plaintiff states that he has no knowledge and is not aware of ever having signed the second supplemental agreement, but says that if his signature does appear thereon, the same was obtained by some method of misrepresentation and fraud, or by
C1029 some trick, artifice, or device of which he was not aware, and which he knows nothing about; that he never discussed the cancellation of the restrictive covenant in the agreement dated May 4, 1961.

Plaintiff further states that the consideration stated in said second supplemental agreement was so wholly and grossly inadequate for such cancellation as to constitute fraud.

In his amended reply, the plaintiff admits the execution of the first supplemental agreement, denies the execution of the second supplemental agreement; that the second supplemental agreement was not discussed by plaintiff and defendant; that if plaintiff did sign the second supplemental agreement, defendant re-

quested plaintiff to sign several copies of the first supplemental agreement and that one of those copies was the second supplemental agreement which plaintiff did not know.

Plaintiff further alleges in the alternative that the consideration for the second supplemental agreement is so grossly unfair and inadequate as to shock the conscience and amounts in itself to conclusive and decisive evidence of fraud, so as to vitiate the second supplemental agreement.

Discussion of the Evidence and the Law.

Originally the plaintiff clearly said that he did not sign the second supplemental agreement (T. 302) (T. 364). Subsequently the Plaintiff admitted that the signature on the second supplemental agreement was his signature (T. 491; 492; 606; 626; 664).

Dr. Turzynski testified that all of the conversations between the parties related only to the first supplemental agreement which varied the method of payment under the agreement of May 4, 1961, and that nothing was said about the second supplemental agreement which purported to waive the restrictive covenant under said agreement; that Dr. Turzynski signed the
C1030 second supplemental agreement believing that it was a copy of the first supplemental agreement. However, Dr. Turzynski admitted that no one was present when he signed the two instruments (T. 655); that he simply signed the two instruments in an office at the Medical Center and walked out (T. 655). Dr. Turzynski found the two instruments lying on the table; no one was present; Dr. Turzynski closed the door,

signed the two instruments and left them on the table (T. 562). Dr. Turzynski testified that about five o'clock, Dr. Libert asked Dr. Turzynski to sign the first supplemental agreement. About seven or eight o'clock Dr. Libert called Dr. Turzynski and asked him to sign. Dr. Turzynski walked in, saw the documents, and signed both of them (T. 656). Dr. Libert had delivered the two copies to Dr. Turzynski about four o'clock (T. 657).

Dr. Libert delivered the two copies to Dr. Turzynski about four o'clock and said this had to be written because he needed this for the Internal Revenue (T. 657) (C923). Dr. Turzynski left the two copies on the table. Later at about seven o'clock Dr. Libert called and asked Dr. Turzynski to sign the papers (T. 658) (C924). The papers were in the office when Dr. Turzynski went in and signed them (T. 660) (C926), (T. 668) (C934). Dr. Turzynski was alone when he signed the documents (T. 660) (C926).

Even a desultory examination of the documents (Plaintiff's Exhibits 2 and 3) would indicate that they are not the same documents. Dr. Turzynski could read. There is no express evidence that Dr. Libert told Dr. Turzynski that the documents were the same.

Anyone who read the documents, even hurriedly, would promptly see that they were not the same.

Dr. Libert testified that the parties had about three conversations about the waiver of the restrictive clause and that Dr. Turzynski agreed to waive it (T. 66-69), (C329-332).

C1031 In some degree, Dr. Libert's testimony is corroborated by the testimony of Irene Barry (T. 451-453, T. 455). (C716 - C718, C720)

In the case of *Bernstein* v. *Bernstein*, 398 Ill. 52, the Court said at page 54:

> "On this state of the evidence found in the record, the case of *Jaworski* v. *Sujewics*, 324 Ill. 19, involving a very similar situation, is persuasive. In that case the plaintiff sued to set aside a deed, alleging fraud and misrepresentation. The plaintiff was the only witness. The trial court set aside the deed, but this court reversed the decree because the plaintiff was not corroborated as to what took place at the time of the execution of the deed, while the defendants were corroborated by other witnesses. In that case we said: 'Fraud will not be presumed, but must be proved by such clear and convincing evidence that the mind is well satisfied that the charge is true.' (*Carter* v. *Carter*, 283 Ill. 324; *Mosbarger* v. *Brown*, 313 id. 238.)"

In the case of *Mosbarger* v. *Brown*, 313 Ill. 238, the Court said at page 248:

> "Fraud will not be presumed, but must be proved by such clear and convincing evidence that the mind is well satisfied that the charge is true. (*Carter* v. *Carter*, 283 Ill. 324.)"

In the case of *Carter* v. *Carter*, 283 Ill. 324, the Court said at page 332:

> "Fraud will not be presumed but must be proved as a fact by such clear and convincing evidence as leaves the mind well satisfied that the allegations of fraud are true. (*McKennan* v. *Mickelberry*, 242 Ill. 117.)"

In the case of *Klass* v. *Halas*, 16 Ill. 2d 161, the Court said at page 165:

> "Thus fraud could not be presumed to arise from a fiduciary relationship, and the plaintiffs must

prove it by clear and convincing evidence. (*Carter* v. *Carter*, 283 Ill. 324; *Bernstein* v. *Bernstein*, 398 Ill. 52.)"

01032 Certainly, on this state of the record, the Master cannot find that the alleged overreaching of Dr. Turzynski by Dr. Libert was proved by such clear and convincing evidence that the mind is well satisfied that the charge is true.

In his amended reply the attorney for plaintiff, Dr. Turzynski, says that the consideration for the second supplemental agreement is so grossly unfair and inadequate as to shock the conscience and amounts in itself to conclusive and decisive evidence of fraud so as to vitiate the second supplemental agreement (Plaintiff's Exhibit 3).

There is no evidence as to the value of the restrictive covenant contained in the agreement of May 4, 1961. There is no evidence from which the Master could find that the agreement of Dr. Samuel A. Libert to remain employed by Dr. Stanley Turzynski for an additional three (3) months beyond December 1, 1961, as per paragraph or section numbered 5, did not constitute adequate consideration for the agreement to cancel and set aside the conditions of section 6 of said agreement of May 4, 1961.

Findings of Fact.

From the evidence taken in this case, the Master makes the following findings of fact:

1. On May 4, 1961, the defendant, Dr. Samuel A. Lilbert, and the plaintiff, Dr. Stanley Turzynski, entered into a certain agreement as follows:

"Agreement.

This Memorandum of Agreement entered into this 4th day of May, 1961, by and between Dr. Samuel A. Lilbert, hereinafter referred to as the 'Seller' and Dr. Stanley Turzynski, hereinafter referred to as the 'Buyer', both of the City of Chicago, County of Cook and State of Illinois;

Witnesseth:

Whereas, the Seller is now the owner of a building located at 6165 Archer Avenue, Chicago, Illinois, and carrying on a medical practice at said location, known as 'Garfield Ridge Medical Center', together with a vacant lot used for parking purposes located at 6159 Archer Avenue, Chicago,
C1033 Illinois; and

Whereas, the Seller is desirous of selling said building and lot, together with the medical practice owned, operated and maintained by him in the said location; and

Whereas, the Buyer is willing to purchase said building and lot, together with the said medical practice.

Now, therefore, for and in consideration of One Dollar and other good and valuable considerations in hand paid, it is agreed as follows:

1. The Seller shall sell to the Buyer all of

his right, title, and interest in and to said building and lot used for parking purposes to the Buyer, said agreement to be incorporated in a real estate sales contract executed simultaneously with this agreement and by reference referred to and incorporated in this Agreement.

2. Buyer shall pay to the Seller the sum of One Hundred Eighty-five Thousand Dollars ($185,000.00) in full of all of the Seller's interest in said real estate and medical practice, said payment to be made as follows:

Five Thousand Dollars ($5,000.00) earnest money, said sum to be held by Shurl Rosmarin, as escrowee, to guarantee performance herein; Forty-five Thousand Dollars ($45,000.00) at the time of closing this deal at the office of the lending institution, less prorations and the amount that may be due from Seller on existing first mortgage on the real estate in an approximate amount of Seventeen Thousand Dollars ($17,000.00); Fifty Thousand Dollars ($50,000.00) on January 2, 1962; and the balance of approximately Sixty-eight Thousand Dollars ($68,000.00) is to be paid by Buyer in monthly installments of Twenty-five Hundred Dollars ($2500.00) without interest, commencing January 2, 1962, and each month thereafter until the purchase price is paid in full; that to secure said unpaid indebtedness of approximately Sixty-eight Thousand Dollars ($68,000.00) Buyer will execute and deliver to Seller a second mortgage trust deed and installment note under the terms aforementioned, said second mortgage to be a junior lien on said real estate, subject only to mortgage in the amount of Forty-five Thousand Dollars ($45,000.00) which it is contemplated that Buyer shall secure from Talman Federal Savings & Loan Association of Chicago.

3. The medical practice of Seller herein referred to shall include all of the medical diagnostic equipment, office and waiting room furniture equipment and machinery, all of the inventory of drugs, and medical supplies, a list of same being attached hereto as Exhibit 'A', together with all accounts receivable standing on the books of the Seller as of the date of the closing of said real estate deal; it is understood by and between the parties that all monies received by the Seller in the operation of said medical practice after the date of closing aforementioned shall be and become the separate property of the Buyer. On all C1034 medical fees received by Buyer after closing date wherein Seller is obligated to certain medical consultants, Buyer shall immediately upon receipt thereof pay said consultants the amounts due them. Buyer shall be obligated only to those consultants whose names appear on the records of Seller and then only with respect to patients listed on the attached Exhibit 'B' and made a part hereof.

4. That on the date of closing of said real estate deal and sale of the medical practice aforementioned, Seller shall deliver to the Buyer a bill of sale fully itemizing all of the furniture, fixtures, equipment and inventory, and shall, in addition, thereto, deliver to the Buyer a Vendor's Affidavit Under the Bulk Sales Act of the State of Illinois.

5. Seller agrees to use all of his best efforts to effect a smooth transfer of said medical practice to the Buyer and further agrees not to publicize the sale of said medical practice to his patients or any other individuals or corporations who have heretofore retained the services of the said Seller; that Seller shall, until December 1, 1961, engage in effecting said transfer and shall be employed by the Buyer for the purpose of effecting said transfer and in said connection shall render any

and all necessary services as a medical doctor and administrator that he ordinarily rendered while he was the owner of said medical practice; that in consideration of said services by the Seller, the Buyer will pay to the Seller a weekly salary of Three Hundred Dollars ($300.00). At any time within the said period, Seller's services may be terminated by Buyer.

6. As a further consideration of the sale of said medical practice, the Seller agrees not to practice his profession as a general practitioner or open a new office for the general practice of medicine directly or indirectly, after said closing date within a radius of fifteen (15) miles from 6165 Archer Avenue, it being specifically understood that the down-town area of the City of Chicago, River Forest and Oak Park, Illinois, are excluded from this restrictive covenant.

7. In the event the Buyer is unable to operate, manage or conduct said medical practice due to illness or any other disability, Seller agrees to continue the supervision of said medical practice for Buyer during said illness or disability and he is to be paid for said services during said disability at a salary to be agreed upon between the parties. Notwithstanding the provisions of this Paragraph, the obligations of the Seller shall be optional at his discretion.

8. If the Buyer defaults on any installment payment due hereunder and said default continues for a period of five (5) days from the date thereof, the Seller shall have the right to declare the entire balance due and owing. Seller reserves the right, in the event of the death of Buyer, and only if there remains an indebtedness due from Buyer to Seller, to repossess himself of said medical practice, operate and conduct the same for such

period of time as is necessary to pay said indebtedness in full, and during such period of operation Seller shall be entitled to receive reasonable compensation for his services; that upon retirement of the indebtedness Seller shall render a C1035 full accounting to the heirs, representatives or administrator of Buyer as the case may be and redeliver possession of said medical practice to them or either of them.

9. The Buyer shall have the exclusive use of the trade name known as 'Grafield Ridge Medical Center' and in connection with all receipts, received by the Buyer, said receipts being limited only to accounts receivable arising from the operation of said medical practice, Buyer shall endorse all of said monies by rubber stamp bearing the name of 'Dr. Samuel A. Libert' and/or 'Garfield Ridge Medical Center'.

10. Seller shall execute any and all documents that may be required of him and not contemplated at this time in order to effect the transfer of said medical practice.

11. Seller shall render any and all effort that Buyer may require of him to make available to Buyer facilities in a Chicago area hospital, if possible, on or before December 1, 1961.

12. Inasmuch as damages are difficult to determine in the event of a breach of this Agreement, Seller does herewith deposit with Shurl Rosmarin as escrowee Five Thousand Dollars ($5,000.00) to guarantee the consummation of this agreement. In the event of Seller's failure or refusal to perform, said sum of Five Thousand Dollars ($5,000.00) is to be forfeited by Seller to Buyer, not as a penalty, but as liquidated damages. Likewise the deposit of Buyer in like amount is to be forfeited to Seller for Buyer's failure to per-

form. Shurl Rosmarin as escrowee is directed to pay out said funds in accordance with this paragraph and the parties do hereby release said Shurl Rosmarin from any liability by reason of any act that may be done by him under this Agreement.

/s/ SAMUEL A. LIBERT, M. D.
/s/ STANLEY TURZYNSKI, M. D."

2. On December 1, 1961, the plaintiff and the defendant executed a certain addendum as follows:

"ADDENDUM.

In keeping with the intention of this installment contract (which is the basic agreement between the buyer and seller) there is a clarification of the installment details as set forth on page 2, 1st paragraph and commencing on line 13.

This section shall be understood henceforth and amended to read: The balance of approximately Sixty Eight Thousand Dollars ($68,000.00) is to be deposited no later than midnight of the 2nd day of each month (subject to the terms and agreements of the installment contract) in monthly installments of $2500.00 commencing on January 2, 1962 and each month thereafter until purchase price
C1036 is paid in full. The depository mutually named shall be the National Security Savings 6859 W. Archer Ave. Chicago, Illinois. Said funds shall be thus held until total amount is paid and only after January 2, 1963 shall these funds, at the discretion of the seller, and only by the seller in total or any fraction thereof be withdrawn.

/s/ STANLEY TURZYNSKI, M. D.
/s/ SAMUEL A. LIBERT, M. D."

3. On December 1, 1961, the plaintiff and defendant entered into a certain amendment to the memorandum of agreement of May 4, 1961, which amendment was as follows:

"Amendment to the Memorandum of Agreement of May 4th, 1961 between Dr. Samuel A. Libert and Dr. Stanley Turzynski.

(1) Whereas paragraph numbered 6, on page three (3) is ambiguous and its validity questioned because line five states a prohibitive 15 mile radius but does not give a time limitation and

(2) Whereas Dr. Turzynski desires to capitalize financially on the good name and offices of Dr. S. A. Libert

Dr. S. Turzynski and Dr. S. A. Libert do mutually agree to cancel and set aside the conditions of section 6, of said agreement provided Dr. S. A. Libert agrees to remain employed by Dr. S. Turzynski for an additional Three (3) months beyond December 1, 1961 as per paragraph or section numbered 5.
Dated and signed Dec. 1, 1961.

/s/ Samuel A. Libert, M. D.
/s/ Stanley Turzynski, M. D."

4. Said Samuel A. Libert remained employed by Dr. Stanley Turzynski for an additional three months beyond December 1, 1961.

5. Said amendment was not procured as the result of any trick or fraud on the part of Dr. Samuel A. Libert.

6. The consideration for said amendment was not grossly inadequate.

C1037 *Recomendations of the Master.*

The Master recommends that a decree be entered:

A. Dismissing the complaint for want of equity: and

B. Taxing the cost, including the Master's fees, against the plaintiff.

APPENDIX F

C985-994 Plaintiff's Exhibit No. 1, undated, consisting of the Agreement entered into by and between the parties on May 4, 1961, re; the Sale of Dr. Libert's MEDICAL PRACTICE, together with the real estate and personal property to Dr. Turzynski for $185,000.00, is as follows:

C986 AGREEMENT.

THIS MEMORANDUM OF AGREEMENT entered into this 4th day of May, 1961, by and between Dr. Samuel A. Libert, hereinafter referred to as the "Seller" and Dr. Stanley Turzynski, hereinafter referred to as the "Buyer", both of the City of Chicago, County of Cook and State of Illinois;

WITNESSETH:

WHEREAS, the Seller is now the owner of a building located at 6165 Archer Avenue, Chicago, Illinois, and carrying on a medical practice at said location, known as "Garfield Ridge Medical Center", together with a vacant lot used for parking purposes located at 6159 Archer Avenue, Chicago, Illinois; and

WHEREAS, the Seller is desirous of selling said building and lot, together with the medical practice owned, operated and maintained by him in the said location; and

WHEREAS, the Buyer is willing to purchase said building and lot, together with the said medical practice.

Now, THEREFORE, for and in consideration of One Dollar and other good and valuable considerations in hand paid, it is agreed as follows:

1. The Seller shall sell to the Buyer all of his right, title and interest in and to said building and lot used

for parking purposes to the Buyer, said agreement to be incorporated in a real estate sales contract executed simultaneously with this agreement and by reference referred to and incorporated in this Agreement.

2. Buyer shall pay to the Seller the sum of One Hundred Eighty-five Thousand Dollars ($185,000.00) in full of all of the Seller's interest in said real estate 0987 and medical practice, said payment to be made as follows:

Five Thousand Dollars ($5,000.00) earnest money, said sum to be held by Shurl Rosmarin, as escrowee, to guarantee performance herein; Forty-five Thousand Dollars ($45,000.00) at the time of closing this deal at the office of the lending institution, less prorations and the amount that may be due from Seller on existing first mortgage on the real estate in an approximate amount of Seventeen Thousand Dollars ($17,000.00); Fifty Thousand Dollars ($50,000.00) on January 2, 1962; and the balance of approximately Sixty-eight Thousand Dollars ($68,000.00) is to be paid by Buyer in monthly installments of Twenty-five Hundred Dollars ($2500.00) without interest, commencing January 2, 1962, and each month thereafter until the purchase price is paid in full; that to secure said unpaid indebtedness of approximately Sixty-eight Thousand Dollars ($68,000.00) Buyer will execute and deliver to Seller a second mortgage trust deed and installment note under the terms aforementioned, said second mortgage to be a junior lien on said real estate, subject only to mortgage in the amout of Forty-five Thousand Dollars ($45,000.00) which it is contemplated that Buyer shall secure from Talman Federal Savings & Loan Association of Chicago.

3. The medical practice of Seller herein referred to shall include all of the medical diagnostic equipment, office and waiting room furniture equipment and machinery, all of the inventory of drugs, and medical supplies, a list of same being attached hereto as Exhibit "A", together with all accounts receivable standing on the books of the Seller as of the date of the closing of said real estate deal; it is understood by and between the parties that all monies received by the Seller in the operation of said medical practice after the date of closing aforementioned shall be and became the separate property of the Buyer. On all medical fees received by Buyer after closing date wherein Seller is obligated to certain medical consultants, Buyer shall immediately upon receipt thereof pay said consultants the amount due them. Buyer shall be obligated only to those consultants whose names
C988 appear on the records of Seller and then only with respect to patients listed on the attached Exhibit "B" and made a part hereof.

4. That on the date of closing of said real estate deal and the sale of medical practice aforementioned, Seller shall deliver to the Buyer a bill of sale fully itemizing all of the furniture, fixtures, equipment and inventory, and shall, in addition thereto, deliver to the Buyer a Vendor's Affidavit Under the Bulk Sales Act of the State of Illinois.

5. Seller agrees to use all of his best efforts to effect a smooth transfer of said medical practice to the Buyer and further agrees not to publicize the sale of said medical practice to his patients or any other individuals or corporation who have heretofore retained

the services of the said Seller; that Seller shall, until December 1, 1961, engage in effecting said transfer and shall be employed by the Buyer for the purpose of effecting said transfer and in said connection shall render any and all necessary services as a medical doctor and administrator that he ordinarily rendered while he was the owner of said medical practice; that in consideration of said services by the Seller, the Buyer will pay to the Seller a weekly salary of Three Hundred Dollars ($300.00). At any time within the said period, Seller's services may be terminated by Buyer.

6. As a further consideration of the sale of said medical practice, the Seller agrees not to practice his profession as a general practitioner or open a new office for the general practice of medicine directly or indirectly, after said closing date within a radius of fifteen (15) miles from 6165 Archer Avenue, it being specifically understood that the down-town area of the City of Chicago, River Forest and Oak Park, Illinois, are excluded from this restrictive covenant.

C989 7. In the event the Buyer is unable to operate, manage or conduct said medical practice due to illness or any other disability, Seller agrees to continue the supervision of said medical practice for Buyer during said illness or disability and he is to be paid for said services during said disability at a salary to be agreed upon between the parties. Notwithstanding the provisions of this Paragraph, the obligations of the Seller shall be optional at his discretion.

8. If the Buyer defaults on any installment payment due hereunder and said default continues for a

period of five (5) days from the date thereof, the Seller shall have the right to declare the entire balance due and owing. Seller reserves the right, in the event of the death of Buyer, and only if there remains an indebtedness due from Buyer to Seller, to repossess himself of said medical practice, operate and conduct the same for such period of time as is necessary to pay said indebtedness in full, and during such period of operation Seller shall be entitled to receive reasonable compensation for his services; that upon retirement of the indebtedness Seller shall render a full accounting to the heirs, representatives or administrator of Buyer as the case may be and redeliver possession of said medical practice to them or either of them.

9. The Buyer shall have the exclusive use of the trade name known as "Garfield Ridge Medical Center" and in connection with all receipts, received by the Buyer, said receipts being limited only to accounts receivable arising from the operation of said medical practice, Buyer shall endorse all of said monies by rubber stamp bearing the name of "Dr. Samuel A. Libert" and/or "Garfield Ridge Medical Center".

10. Seller shall execute any and all documents that may be required of him and not contemplated at this time in order to effect the transfer of said medical practice.

C000 11. Seller shall render any and all effort that Buyer may require of him to make available to Buyer facilities in a Chicago area hospital, if possible, on or before December 1, 1961.

12. Inasmuch as damages are difficult to determine in the event of a breach of this Agreement, Seller does herewith deposit with Sharl Rosmarin as escrowee Five Thousand Dollars ($5,000.00) to guarantee the consummation of this agreement. In the event of Seller's failure or refusal to perform, said sum of Five Thousand Dollars ($5,000.00) is to be forfeited by Seller to Buyer, not as a penalty, but as liquidated damages. Likewise the deposit of Buyer in like amount is to be forfeited to Seller for Buyer's failure to perform. Sharl Rosmarin as escrowee is directed to pay out said funds in accordance with this paragraph and the parties do hereby release said Sharl Rosmarin from any liability by reason of any act that may be done by him under this Agreement.

/s/ Samuel S. Lemon, M.D.
/s/ Shirley Temperer, M.D.

[redacted]

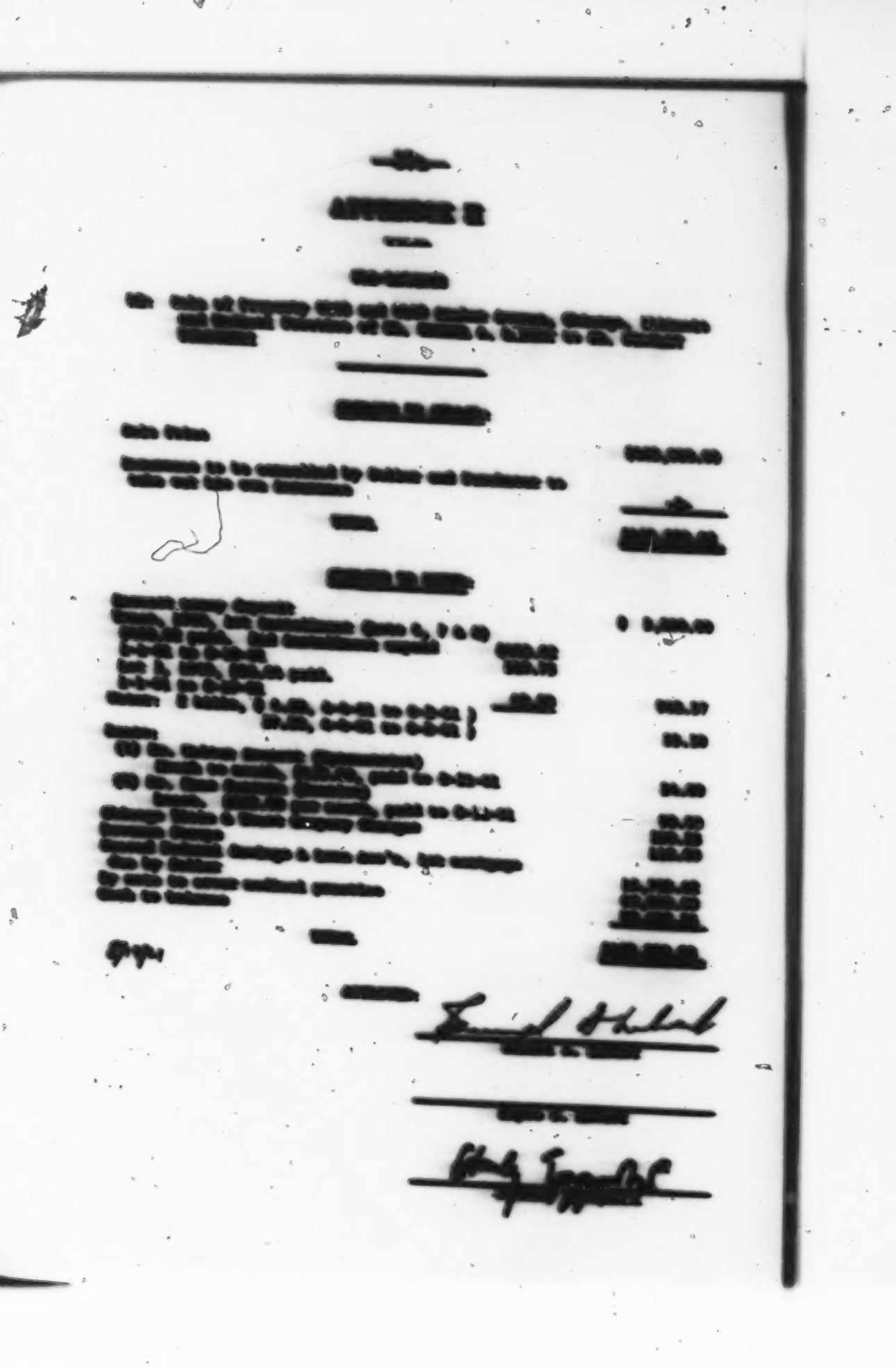
Instalment Note

[redacted]

$[redacted]

[redacted]

[redacted]



APPENDIX I

[redacted]

In keeping with the intention of this Establishment [redacted] to the basic agreement between the Navy and Artisan Union to a clarification of the application of [redacted] on page [redacted] paragraph [redacted] commencing on Line [redacted].

This section shall be understood herewith and amended to read the following [redacted] to be applicable on [redacted] days of each month, [redacted] to the terms and agreements of the Establishment [redacted] to employ journeymen at [redacted] commencing on January 1, 1962 and each month thereafter will [redacted] to pay in full the regular [redacted] shall be the [redacted] payment [redacted] shall be [redacted] shall [redacted] to pay and any [redacted] shall [redacted] of the provisions of the collective [redacted] to which or any [redacted] thereof be violated.

PLF'S EXHIBIT 2-X
HENRY G. FLINT
HEARING IN CHAMBERS
10-10-63
DN

[redacted]

APPENDIX 3

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

(1) [redacted]

(2) [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[

APPENDIX E

C1015-C1021 DEFENDANT'S GROUP EXHIBIT No. 2 consisting of 7 instruments in plaintiff's handwritting, indicating the dates of defendant's employment and the salaries paid to defendant for said employment, were as follows:

DEFENDANT'S GROUP EXHIBIT No. 2

C1015 S. LIBERT

8-21-61	8-28-61
8-22-61	8-29-61
8-23-61	8-30-61
8-24-61	$ 105.—
8-25-61	
8-26-61	
$ 300.—	

C1016 S. LIBERT

10-14-61	$ 50.—
10-21-61	$ 50.—
10-28-61	$ 50.—

C1017 S. LIBERT

11-4-61	$ 50.—
11-8-61	$ 50.—
11-11-61	$ 50.—
11-15-61	$ 50.—
11-18-61	$ 50.—
11-22-61	$ 50.—
11-25-61	$ 50.—
11-29-61	$ 50.—

Extra $ 75.—

C1018 S. LIBERT

12-6-61	.....	$ 100.—
12-13-61	.....	$ 100.—
12-19-61	.....	$ 100.—
12-29-61	.....	$ 75.—

C1019 S. LIBERT

1-5-62	.....	$ 100.—
1-9-62	.....	$ 100.—
1-10-62	.....	$ 100.—
1-11-62	.....	$ 100.—
1-12-62	.....	$ 100.—
1-13-62	.....	$ 100.—
1-17-62	.....	$ 100.—
1-23-62	.....	$ 75.—
1-26-62	.....	$ 75.—
1-27-62	.....	$ 100.—
1-31-62	.....	$ 50.—

Extra $ 100.—

C1020 LIBERT

2-2-62	.....	$ 75.—
2-7-62	.....	$ 100.—
2-10-62	.....	$ 75.—
2-16-62	.....	$ 75.—
2-17-62	.....	$ 100.—
2-21-62	.....	$ 100.—
2-24-62	.....	$ 75.—
2-28-62	.....	$ 100.—

C1021 LIBERT

4-10-62	.....	$ 175.—
4-21-62	.....	$ 75.—
4-25-62	.....	$ 100.—
4-28-62	.....	$ 75.—

Extra $ 25.—

APPENDIX B

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

[illegible]

November 5, 1970

Mr. Stanley Turzynski
6183 Archer
Chicago, Illinois 60638

Dear Mr. Turzynski:

Your petition for appointment of counsel is returned and you are informed that this Court does not appoint counsel to represent litigants or to prepare petitions for writs of certiorari. This Court may appoint counsel only in the event that it grants your petition for writ of certiorari, and it is solely your responsibility to retain counsel if you wish to do so to represent you in your case.

Very truly yours,

E. [illegible], Clerk

By [signature]
Robert B. [illegible]
Assistant

RBB:rpo
Enclosure